

September 20, 2005



TRANSCRIPT
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MONTGOMERY COUNTY COUNCIL

Thomas Perez, President
Phil Andrews
Howard Denis
Marilyn J. Praisner

George Leventhal, Vice President
Michael Knapp
Nancy Floreen
Steven A. Silverman

Michael Subin

Reverend Rosetta Robinson,
In each of us when our opinions and words hurt others. Forgive me and each of us when we react with raw emotion in ways less noble than you would have us react. That is from a Reverend Robert Jones in the New Orleans region. Let us pray. Oh, God, forgive us for the ways that we have hurt the poor and ignored them in our nation, in Montgomery County, in New Orleans. Oh, God, forgive us for the bad attitudes we have about the poor in our nation, in New Orleans, in Montgomery County. Oh, Lord, oh, God, forgive us for the adverse policies that we have put in place that really hurt the poor in our nation, in New Orleans, in Montgomery County. Give us compassion to find the housing solutions for those who, the 10,000, that wait on waiting lists for housing, subsidized housing, in Montgomery County, give us compassion for the evacuees from New Orleans who will come to Montgomery County and are coming to find rest, housing, refuge, from the devastation they experienced in New Orleans. And oh God, give them strength, dignity, hope and faith to rebuild their lives and to feel whole again. Amen.

Council President PEREZ,
Thank you. And thank you, Reverend Robinson for all of your work in the aftermath of the hurricane to make sure that we were, as the County, putting our best foot forward. Appreciate your efforts. Okay. Let's turn to Councilmember Andrews.

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Councilmember ANDREWS,

Good morning, everyone. With me is Chief Mary Ann Viverette of the Gaithersburg City Police, Mayor Sidney Katz and City Manager, Dave Humpton. One of the most enjoyable parts of being a Councilmember is a chance to recognize outstanding work and to help honor it. And that's what I have a chance to do today. Chief Mary Ann Viverette is a 19-year veteran as Chief of the Gaithersburg City Police, she has done remarkable things in that position and she's about to embark on a worldwide challenge as she takes the helm next week, September 28th, as the first female President of the International Association of Chiefs of Police. This is a 115-year -- [applause] -- this is a 115-year organization with 19,000 members across the world, and so while today, Gaithersburg, next week it's the world for Chief Viverette. She will have three able lieutenants to fill her shoes each can take the eight hours of the 24 that's now put in. [laughter] That's about right. And so, you know, one of the things that I think all of us recognize is that not all people who achieve historic things are people you'd want to have over for dinner. Chief Viverette is certainly a person who has those qualities as well. She's about as approachable and as balanced a person as I think you're going to find, and a truly enjoyable person to work with. Now, Chief Viverette actually started her career with Montgomery County. She spent three and a half years as a, working for the Emergency Communications Division of the Montgomery County Police and a year and a half with the Office of the Sheriff, and I'm tempted to compare our loss to the loss of the Red Sox when we lost Babe Ruth, or maybe a team that lost Babe Didrikson, but Chief Viverette has put in now about 25 years into the City of Gaithersburg, so she has devoted her life to public safety and now she is taking on a worldwide leadership role and we want to say congratulations, thank you for your service, and I'm going to read a proclamation from the County Council on this occasion and then ask you to say a few words and Mayor Katz to say a few words as well. The County Council of Montgomery County, Maryland, whereas Police Chief Mary Ann Viverette is the first woman elected to the position of President of the International Association of Chiefs of Police, the oldest and largest law enforcement leadership organization with over 19,000 members worldwide, an honor shared with the most respected Police Chiefs around the world, and whereas, since 1893, the International Association of Chiefs of Police has been serving the needs of the law enforcement community and have launched historically acclaimed programs, conducting ground-breaking research and providing exemplary programs and services to their membership across the world. And whereas Mary Ann Viverette is Chief of Police of the Gaithersburg Police Department in Gaithersburg, Maryland, and has served with the Gaithersburg Police since 1979, holding all ranks until her appointment as Chief of Police in 1986 and probably holding some of those simultaneously. A very small department when you started. You want to, three or four officer? Okay. Whereas the Gaithersburg Police Department has been nationally accredited by the Commission on Accreditation for Law Enforcement Agency since 1993, and that's no easy thing to get accredited in, that's a very vigorous process, and has won the National League of Cities Livability Award for the citywide community policing efforts, and whereas Chief Viverette has been a member of the Maryland Chief's of Police Association since her appointment in 1986 and serves on their

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1 Executive Committee as a regional representative, and whereas in June 2002, Chief
2 Viverette was appointed Commissioner with the Commission on Accreditation for Law
3 Enforcement Agencies, CALEA, was elected Vice President of CALEA in 2005 and she
4 serves as the Chair of the Standards Review and Interpretation Committee. So you're
5 used to traveling. That will be good practice. Now therefore, be it resolved that the
6 County Council of Montgomery County, Maryland hereby proclaims its commendation to
7 Chief of Police Mary Ann Viverette upon her installation as President of the International
8 Association of Chiefs of Police and joins with her friends and colleagues in honoring her
9 for her commitment to the welfare of the people of Montgomery County and throughout
10 the world. Proclaimed this day, signed by Thomas Perez, Council President. Okay.
11 Please say a few words.

12
13 Chief Mary Ann Viverette,
14 Well, thank you. I'm so honored to have this proclamation, being a lifelong County
15 resident, I grew up in Kensington. It's an honor to be a part of Montgomery County and
16 certainly it's easy to be proud of the City of Gaithersburg. As you know, the City does
17 such great work. It's a great hometown and it's fun to go around the country and around
18 the world and to talk about being from such a great city, and they understand the
19 importance of being involved in this organization, what I can bring back to the
20 community and what we've learned over the years from the IACP and the Maryland
21 Chief's, so I'm very honored to receive this and I look forward to talking about
22 Montgomery County and the City of Gaithersburg as I travel around the world. Thank
23 you very much.

24
25 Councilmember ANDREWS,
26 Thank you. [applause]

27
28 Mayor Sidney Katz,
29 Thank you, the proclamation certainly says it all. Obviously, the City of Gaithersburg is
30 very, very proud of Mary Ann, and of course, we're very proud to be a partner with
31 Montgomery County throughout this process. And we, years ago, realized that no single
32 government can do everything by itself and we continue to work with Montgomery
33 County on many, many issues, including their Police Department, but beyond
34 everything else, it seems hard to believe that it took the International Association of
35 Chiefs of Police 112 years to realize that Mary Ann Viverette should be their President.
36 Thank you very much.

37
38 Chief Mary Ann Viverette,
39 Thank you. [applause]

40
41 Unidentified
42 Okay.

43
44 Unidentified
45 Hello.



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Council President PEREZ,
Wow, thank you, Chief.

Unidentified
Thanks very much.

Council President PEREZ,
Mayor, Mayor, this might be the first time I've heard you give a presentation without talking about Gaithersburg, welcome to Gaithersburg, the finest city in America. Yeah, exactly. I was very disappointed, Mayor.

Mayor Sidney Katz,
Give me another chance.

Council President PEREZ,
Yeah.

Council President PEREZ,
Okay, let's turn to Councilmember Praisner.

Councilmember PRAISNER,
Will the folks from the First Tee of Montgomery County join me up here? Come on.

Councilmember SILVERMAN
You guys bring your sticks?

Councilmember PRAISNER,
No. I don't think so. Well, we just honored Mary Ann and made the point about the value of networking and getting to be involved in other organizations. Several years ago, Councilmember Krahne and I were at a National Association of Counties meeting, a large urban county caucus meeting, where we were introduced to the concept and program called "First Tee", which is supported by the National Golf organizations and is a wonderful program and opportunity for young people in this country. You had to learn about golf but also to learn about the life skills that are necessary for all of us, and obviously, when Tiger Woods came on the scene, a lot of young people got interested in golf who might not have been interested before. And as a woman who knows that in the past a lot of deals and networking went on in golf courses and may not have been open to everybody, the use of golf courses in that venue for lots of exposure and opportunities is well-known in this country, so we came back, Betty Ann and I, and found some folks who liked to play a little golf and also understand the importance of this program for young people who were more than willing to come forward and create the First Tee program in Montgomery County. This year, the First Tee program in Montgomery County moved into a new, or moved forward in implementing some of the programs that are available by sending these wonderful young people to the Academy



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1 for Life Skills and Leadership. Since this is the first opportunity we've had to select and
2 send some young people from Montgomery County to this program, I thought it would
3 be appropriate to acknowledge their participation and their selection and participation
4 and to thank the folks from First Tee Montgomery who are here. So, we have some
5 proclamations and they say, "Whereas First Tee, a non-profit initiative is designed to
6 impact the lives of young people by providing learning facilities and educational
7 programs that promote character development and life enhancing values through the
8 game of golf, and whereas by partnering with such organizations as the Housing
9 Opportunities Commission, the Boys and Girls Club of Silver Spring, the First Tee
10 Montgomery County chapter, which is less than five years old, has introduced golf to
11 many kids who otherwise would not have had the opportunity to play the sport. And
12 whereas Jaron Waters of Sandy Spring, Stephen Mooney of Laytonsville and Patrick
13 Dooley of Gaithersburg, were the first chosen from First Tee's Montgomery County
14 chapter to attend the Sixth Annual Life Skills and Leadership National Academy held at
15 Covert Hills Golf Course in Kansas State University in Manhattan, Kansas this past July,
16 and whereas the overall purpose of the Academy is to provide valuable character,
17 education, and leadership instruction, as well as workshops on self-management,
18 decision-making, and of course, golf clinics. Now, therefore, be it resolved that the
19 Montgomery County Council commends Jaron Waters, Stephen Mooney, and Patrick
20 Dooley on their impressive achievement and hopes that their futures are choked full of
21 birdies and pars with nary a bogie in sight." And it's presented on the 20th day of
22 September in the year 2005 and signed by our Council President, Tom Perez. So let me
23 give each of you one of these and see if any of you would like to say anything about
24 your experience. Any comments you want to make? Anybody? You have a good time?

25
26 Unidentified

27 Yeah, it was great.

28
29 Councilmember PRAISNER,
30 Go ahead. Tell them about it.

31
32 Unidentified

33 The First Tee Kansas was really fun. It was interesting meeting people throughout the
34 country.

35
36 Councilmember PRAISNER,
37 Great. Anybody else?

38
39 Unidentified

40 It was also interesting meeting someone from Singapore. That was pretty cool and I got
41 to play with him a lot so it was fun.

42
43 Unidentified

44 Attending at the First Tee Academy in Kansas State was a great time. I got to meet
45 people that usually, you know, we really don't get to meet a lot of kids like, you know,



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1 around playing golf that much and we saw that we had a great time, we had, you know,
2 seen a lot of kids who had the same interests as we did and it was a good time.

3
4 Councilmember PRAISNER,

5 Now, before I, we take the picture, I have a little surprise for someone. Would Dale
6 come forward, Dale Carlson. Dale has been the leading leader and shining light for our
7 First Tee in Montgomery County for the last few years and, unfortunately, she's moving
8 on. And so we won't have her outstanding leadership and skills to work with
9 Montgomery County, but I think folks down south are going to enjoy that benefit. It's
10 going to be our loss and their gain. So I'd like to, on behalf of the Montgomery County
11 Council give you this certificate, Dale, in recognition of your exceptional work and
12 dedication to the Montgomery County chapter First Tee and to you efforts to enhance
13 the lives of Montgomery County youth in this County. [applause]

14
15 Dale Carlson,
16 Thank you.

17
18 Councilmember PRAISNER,

19 And lest he think I might have forgotten him, there is a young boy here who has spent a
20 lot of time playing golf and also -- [laughter]

21
22 Charlie Steinbraker
23 Not fair.

24
25 Councilmember PRAISNER,

26 Of course it's not fair but I'm a Councilmember.

27
28 Unidentified
29 Yes.

30
31 Councilmember PRAISNER,

32 Charlie Steinbraker, as many of you know, spent many of years with the Department of
33 Recreation in Montgomery County, and after hanging up his keys and whistle and
34 everything else, he still spent a significant amount of time leading and working on this
35 First Tee program in Montgomery County, and we owe, in Montgomery County, the
36 young people who will come into the program and those who have been in the program,
37 owe both Dale and Charlie a great deal for the work and effort that they've done. And
38 Charlie, too, is moving out of Montgomery County. I can't imagine Montgomery County
39 without Charlie Steinbraker, but we wanted to thank him for his exceptional service to
40 the youth of Montgomery County as well. Charlie. [applause] You want to take a
41 picture? Okay, let's get. Come on in back here, folks, and try to get a picture with
42 everybody. Huh? No. It's not going to happen. Dale, did you want to say something?
43 Yeah, Dale wanted to say something.

44
45 Dale Carlson,



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1 If I can just say a couple of words. I'm not leaving until January, so I'm not done yet.
2 These three kids, I am so proud of them. They are testimony to what makes this
3 program great. This is about so much more than golf and these opportunities are life-
4 altering for these kids. One of them made his first trip out of Maryland and his first trip
5 on an airplane, and so these are opportunities to that we are so proud to offer. These
6 kids also earned the opportunity. They had to certify in both golf and life skills, they had
7 to have a recognition from their coach, they had a community recognition and they had
8 to complete five essays, so they didn't do this lightly without a lot of work, and with the
9 County Council support over the last couple of years, we've grown in 2003 from 134
10 kids to this year we will end 2005 instructing almost 500 children in Montgomery
11 County, so your support in helping us move from White Oak to Sligo Creek and
12 retaining that base of kids in the County, we're now teaching at Sligo, we're teaching at
13 Laytonsville, we teach at Montgomery Village Private Club, we have a partnership with
14 Watkins Mill High School, where we have leadership groups from the African-American
15 community there of girls and boys, and my favorite, we teach at Olney Golf Park where
16 we do a girls-only session. So we're about really raising cultural diversity,
17 socioeconomic diversity, and gender diversity in golf and most importantly, working with
18 our community partners like HOC, Boys and Girls Club, Girl Scouts, as well as the high
19 school and the Rec Departments. So we thank you for your support. I still turn kids
20 away so there's much more to come and there's many more of these kids where they're
21 standing. So I appreciate it very, very much.

22
23 Councilmember PRAISNER,
24 Thank you. [applause]

25
26 Dale Carlson,
27 Thank you all very much.

28
29
30 Council President PEREZ,
31 Councilmember Praisner, there was another person in the back that I didn't recognize
32 with glasses. Okay, very well. He looked like an interloper. I called security on him.

33
34 Councilmember PRAISNER,
35 I have to come to the Council to do my --.

36
37 Council President PEREZ,
38 That's right. Okay, let's turn to general business. Ms. Lauer. Calendar changes. Agenda
39 changes.

40
41 Ms. Lauer,
42 This morning, as we complete the business this morning, Chief Administrative Officer,
43 Bruce Romer, and some of his Staff will be here to give another update on Hurricane
44 Katrina recovery efforts. And then I just wanted to clarify the closed session we've
45 added an additional purpose clause here so the proposed closed session is to consult



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1 with Council to obtain legal advice as well as consult with Staff and consultants about
2 pending or potential litigation, and we'll do that this afternoon after the public hearings at
3 2:30. Thank you.

4
5 Council President PEREZ,
6 Okay. Thank you. We have, Madame Clerk, approval of minutes. We'll vote on that
7 later. Approval of minutes?

8
9 Madame Clerk,
10 You have the minutes of September 6th for approval.

11
12 Council President PEREZ,
13 Moved and seconded. All those in favor? Unanimous. Okay. Receipt of petitions, we do
14 have a petition from a group of residents supporting a moratorium on condominium
15 conversions, 161 signatures. Thank you to all of those who signed the petition. Let's
16 move to consent calendar.

17
18 Unidentified
19 Move approval.

20
21 Council President PEREZ,
22 Moved and seconded. Mr. Subin. Welcome back and thank you for your service. We did
23 call the Mayor of Virginia Beach to give him fair warning that you were coming and so
24 they put the emergency preparation in place for you.

25
26 Councilmember SUBIN,
27 I wondered what all those police were doing the entire time I was there.

28
29 Council President PEREZ,
30 Yes.

31
32 Councilmember SUBIN,
33 They wouldn't let me near the boardwalk though.

34
35 Council President PEREZ,
36 Thank you for your service, though. You have the floor if you --

37
38 Councilmember SUBIN,
39 It was just a comment, not on any particular item. A number of items show up on the
40 consent calendar that, in fact, have gone to Committee before they've gone to public
41 hearing, and consent calendar and items such as those are usually non-controversial. In
42 fact, the Ed Committee had two of those yesterday. But I think that a better practice
43 would be for those to go to public hearing first because you never know. Sometimes
44 there are sleepers hidden in there and we're making decisions in Committee and then



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1 holding a public hearing. I know that's been the practice for ever and it's not meant as a
2 criticism towards anyone.

3
4 Council President PEREZ,
5 Uh-huh.

6
7 Councilmember SUBIN,
8 But I think the public would be better served and we would be better served.

9
10 Council President PEREZ,
11 Yup.

12
13 Councilmember SUBIN,
14 If we just flipped some of those.

15
16 Council President PEREZ,
17 Good food for thought. Okay, no other lights, all those in favor, unanimous among those
18 present. Let's turn to the District Council session and we have Agenda Item Number 3,
19 Introduction Zoning Text Amendment 05-12, C-2 Zone Special Development Procedure,
20 sponsored by Councilmember Leventhal. The action here is a resolution for a public
21 hearing on October 25th, 2005 at 1:30. Moved and seconded, all those in favor,
22 unanimous among those present. Oh, sure. Sorry.

23
24 Councilmember FLOREEN,
25 I just wanted to ask that whenever it comes, really to the PHED Committee, I guess, we
26 get information about where else this might apply. Thank you.

27
28 Council President PEREZ,
29 Sure thing.

30
31 Councilmember FLOREEN,
32 Let me put it this way, the various locations for this--

33
34 Council President PEREZ,
35 Right. Agenda Item 4 is Action Consideration and Hearing Examiner's Report and
36 Recommendation Application G-830, White Flint Crossing, LLC. Is Ms. Carrier was
37 going to be here, she said. I know Mr. Tierney is unable to be here, but Ms. Carrier was
38 going to be here. [inaudible]

39
40 Unidentified
41 Yes, why don't we do that.

42
43 Council President PEREZ,
44 Resolution to establish a public hearing on the master plan for historic preservation,
45 Moreland and Sycamore store, moved and seconded. All those in favor, unanimous



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1 among those present, that was Action Item Number 5. Do you want to do, I know Ms.
2 Praisner, you had some issues on Number 6. Do you want to go to Number 6? Okay.
3 Okay. [laughter] sorry. Don't, this is, this County Council is very punctual, Ms. Carrier.
4 And we have never been late and we will have none of that again.

5
6 Ms. Carrier,
7 It's been my experience that you've never been late. [laughter]

8
9 Council President PEREZ,
10 Yes, we live in a parallel universe, evidently. Okay, good morning. It's good to see you.

11
12 Ms. Carrier,
13 Good morning. I actually have a couple of corrections to give you on the resolution and I
14 guess on the Hearing Examiner's report if the Council would like to hear them, I
15 suppose it depends on whether you're inclined to actually consider the matter today or
16 whether you're planning to wait until Mr. Tierney can be here. But the applicants'
17 counsel informed me of a couple of minor errors and I did discuss them with Mr. Tierney
18 by phone so I can clarify them for you if you would like.

19
20 Council President PEREZ,
21 Why don't you clarify them?

22
23 Ms. Carrier,

24
25 Okay.

26
27 Council President PEREZ,
28 Because I think that there is some sentiment to move forward.

29
30 Ms. Carrier,
31 Okay. One is on Page 2, Circle 4 of the resolution. The first full paragraph, second
32 sentence reads "the property extends about 1,560 feet in depth and is about 845 feet
33 wide." It is a mystery to Mr. Tierney how those particular measurements got into the
34 report. They don't appear to pertain to the exhibits in the case. Maybe it's a leftover from
35 another report. That's my speculation.

36
37 Council President PEREZ,
38 Could you repeat where you are?

39
40 Ms. Carrier,
41 Yup.

42
43 Council President PEREZ,



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1 I have two different things. There's a separate Agenda Item 4, there's a, another
2 Agenda Item 4 and then there's the packet that I looked at that was the thick packet of
3 Agenda Item 4.

4
5 Ms. Carrier,
6 Well, I guess look at the thick packet. That's the only one I have.

7
8 Council President PEREZ,
9 Okay.

10
11 Ms. Carrier,
12 And on Circle 4, the second paragraph he's describing the property and he gives
13 dimensions, 1500 feet in depth and 845 feet in width. That would give you a property of
14 about 30 acres and this property is 5.9 acres. So, that sentence should just be removed.
15 I couldn't find anything in the file that told the actual dimensions of the property, but we
16 do have the acreage and the square footage and the acreage is 5.92 acres. That was
17 the first point. The second one, if you look in the same document on Circle 6, the
18 second paragraph, the last sentence states that there will be at least 66 MPDUs on site,
19 and I also noticed in the report itself the Hearing Examiner gave what appeared to be
20 fixed numbers for the number of units and, in fact, the way the development plan is
21 presented, there is a table that gives numbers that appear to be fixed but then if you
22 look at the binding elements, it makes clear that those numbers are not fixed and there
23 is no minimum or maximum set for the number of residential units, that number will be
24 determined at site plan. There is a guarantee of a minimum of 130,000 square feet of
25 commercial development and the ground for each building must remain commercial, but
26 aside from that, the proportions of commercial and residential are not fixed by any
27 binding sense and therefore, the number of MPDUs will depend on the number of final
28 units that the Planning Board permits. If the Planning Board allows a number of
29 residential units that allows the applicant to get a bonus density, they're willing to go up
30 to 15% MPDUs. If they don't get that bonus density, my understanding is that it would
31 be the 12.5 % MPDUs so, that's a nuance on the description of the project. There is a
32 third item, which came in the letter, a separate letter --

33
34 Council President PEREZ,
35 A second.

36
37 Councilmember PRAISNER,
38 Changing that sentence then?

39
40 Ms. Carrier,
41 Yes, I would. I would certainly recommend. I would recommend changing that sentence
42 to say there will be at least 12.5 % MPDUs and potentially up to 15% MPDUs to be
43 determined at site plan.

44
45 Council President PEREZ,



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1 Let me ask, stop you there. Ms. Praisner did you --

2
3 Councilmember PRAISNER,
4 I had another question on that page but I think she should finish.

5
6 Council President PEREZ,
7 Okay. Okay. Why don't you finish up and then we'll go to Ms. Praisner and Ms. Floreen.

8
9 Ms. Carrier,
10 The third point is in a separate letter from applicants' counsel which states that the
11 Hearing Examiner's report refers to a 25-foot sidewalk versus a 35-foot sidewalk. It is
12 apparently the applicant's intention to provide a 35-foot setback area that will
13 incorporate a sidewalk and streetscaping. The entire 35 feet is not intended to be only a
14 sidewalk. And that's all I have.

15
16 Council President PEREZ,
17 Okay. Ms. Praisner.

18
19 Councilmember PRAISNER,
20 Well, I had two questions. One is on that same page, Circle 6, the next paragraph
21 where there's a reference to a grocery store and it names the specific grocery store, and
22 I thought we did not, as a practice, write something that assumed a, with that kind of
23 specificity.

24
25 Ms. Carrier,
26 I will confess that I didn't read that line and I'm, I understand that your reluctance to see
27 an actual retailer named. There's nothing in the binding elements that says --

28
29 Councilmember PRAISNER,
30 But it's referenced.

31
32 Ms. Carrier,
33 There will be a Whole Foods supermarket.

34
35 Councilmember PRAISNER,
36 So I would suggest that we say the western block will contain a 6,000 square-foot
37 grocery store on the ground floor period.

38
39 Ms. Carrier,
40 I think that's a very good idea.

41
42 Councilmember PRAISNER,
43 The other question I had, I think I understand, and I'm not sure if you have the
44 information, but it deals with public space, public amenities space and the requirement
45 for public amenity space, which I guess would be, you know, from a binding-element



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1 perspective, it talks about rooftops, et cetera, and internal building public space and I
2 must admit that I am more and more concerned about assumptions of calculation of
3 public space that is internally controlled by whomever has the key to the door and also
4 assumptions that the roof or other areas might be public space. I think as I read it
5 further, I understood that they had well-beyond the required amount of space for public
6 space and, therefore, the rooftop kinds of accessing things were more in reference to
7 the residence than to the general public, but I don't know if any of my colleagues picked
8 up on that better for me or whatever, but that was, I'm assuming in the context of
9 reviewing this as I read everything that when we -- because it lumps public amenities
10 and the space lumps it in one sentence so in most places, so it was hard to differentiate.
11 Nancy has her light on. She may have similar questions or other issues.

12
13 Ms. Carrier,
14 I have to say that I don't know the details --

15
16 Councilmember PRAISNER,
17 It's not dispositive from my perspective to the issue, the issue's related, I think, to the
18 community desire to have calculations for transportation done differently.

19
20 Ms. Carrier,
21 Right.

22
23 Councilmember PRAISNER,
24 Than the Planning Board and Planning Board Staff presented was necessary and
25 determinations by the Planning Board and Staff and the Hearing Examiner concluded
26 that the decisions of the Planning Board were within the context of appropriate, so, and
27 reasonable, and that's why I think he came to the conclusion that he did, so it didn't
28 revolve around this issue.

29
30 Ms. Carrier,
31 Right.

32
33 Councilmember PRAISNER,
34 Since there seemed to be references to more than enough space set aside, it wasn't a
35 deal-breaker from a standpoint of my vote.

36
37 Ms. Carrier,
38 Right.

39
40 Councilmember PRAISNER,
41 So that's all I had as reference.

42
43 Ms. Carrier,
44 It's my understanding in general that rooftop and interior space is used for the passive,
45 active-passive recreation area requirement and not generally used for the public space



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1 requirement which is usually exterior and at least visually accessible to members of the
2 public.

3
4 Councilmember PRAISNER,
5 My problem was I think the way the sentences were written, they were kind of melded
6 together and it was hard to understand which is associated with which.

7
8 Council President PEREZ,
9 Ms. Floreen.

10
11 Councilmember FLOREEN,
12 Thank you. I had Ms. Praisner's same question, particularly with respect to the retail
13 user, and I guess I would say I would like to talk with you about how these opinions are
14 drafted, maybe we could resolve some of the detailed things that give rise to community
15 expectations when they're simply supposed to be sort of illustrative.

16
17 Ms. Carrier,
18 Yes, I can --

19
20 Councilmember FLOREEN,
21 Improve on that.

22
23 Ms. Carrier,
24 I would be very hesitant to be critical of Mr. Tierney who, of course, defined the role of
25 Hearing Examiner in this County.

26
27 Councilmember FLOREEN,
28 No, not at all.

29
30 Ms. Carrier,
31 But there, I, there is, as he said to me yesterday, he probably tended to rely on
32 testimony perhaps more than he should have and that's why he said 66 MPDUs
33 because that's what somebody said.

34
35 Councilmember FLOREEN,
36 I don't want to go into the details. I'm comfortable with the proposal and this is, in terms
37 of the general elements of the project it seems to comply with the zoning and it has
38 pretty unanimous support, so I think the issues that Ms. Praisner raised can be
39 addressed in other context. So I would move approval.

40
41 Council President PEREZ,
42 Okay. Mr. Andrews.

43
44 Councilmember ANDREWS,



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1 Thank you. I realize that this wasn't your case but I'm wondering if you can flush out a
2 couple of the questions I have and on Circle 7, it, third to the last paragraph on Circle 7,
3 it says the development plan contains amenities that will extend benefits to future
4 residents of the development and their neighbors, and so I'd like to, if you'd, maybe you
5 can point me in the packet or just describe the primary amenities that that refers to.

6
7 Ms. Carrier,

8 I guess the only thing I can do is turn to the section on amenities the Hearing
9 Examiner's report. Well, it references, let's see, amenities are on Circle 22. Then this
10 includes the extension of Executive Boulevard across the northern or perimeter of the
11 site to a juncture with Rockville Drive. There's also to be a service drive and this, the
12 idea is that the street grid will be improved which will provide pedestrian access to and
13 from Metro and slow traffic offering a buffer for pedestrians. The other amenities also,
14 sidewalks, street trees, pedestrian-scale street lights, benches, other streetscape
15 improvements and ample building set-backs, also landscape and public art, although I
16 certainly don't know the details of the public art, but statuary, perhaps. And a plaza at a
17 central location adjacent to Festival Street, which is the street they're creating sort of in
18 the middle of the two parts of the development.

19
20 Councilmember ANDREWS,
21 Okay. All right.

22
23 Ms. Carrier,
24 Does that help?

25
26 Councilmember ANDREWS,
27 That's helpful. What are the, what's the definition of quasi-public areas that's on the
28 Circle 8 of the, it's the second, the fourth line of the Circle 8 of the opinion?

29
30 Ms. Carrier,
31 That is a, and a phrase that a finding is necessary under 59-d-1.61(a) of the Zoning
32 Ordinance which sets out five findings the Council has to make. And we used that
33 phrase, in my thinking, to mean areas that are sort of, it's sort of like common areas, but
34 it may be areas like the set-backs where there's a grassy area between the buildings
35 and the sidewalk and the area between the sidewalk and the street, which are areas
36 that are accessible to the public in a sense, but at least part of it, the part that's not
37 dedicated is going to be owned by some entity. And so in many cases, there are
38 submissions of some kind of documentation. If it's going to be a condo or a
39 homeowner's association, here it may be that it's going to be a building owner, since
40 there's a lot of commercial property. And we want to make sure that there's someone
41 who's going have responsibility to maintain those areas, replace the plants, water the
42 grass, et cetera.

43
44 Councilmember ANDREWS,



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1 Right, that's an important clause. And it states finally " the District Council determines
2 that the proposed development will provide for the perpetual maintenance of all
3 recreational common and quasi-public areas." And I just wanted to make sure that there
4 is a clear understanding of what those areas are that will be the responsibility of the new
5 development.

6
7 Ms. Carrier,

8 I can't tell with you any detail what representations were made that support that
9 conclusion. I'm sure it's in this report somewhere. I have to say the report, says the
10 applicant provided evidence to assure perpetual maintenance. It doesn't spell out what
11 that evidence was. I have the file with me, but it would probably take me a little while to
12 dig out whatever that particular piece of evidence was.

13
14 Councilmember ANDREWS,

15 My concern is to make sure that there's agreement about what those areas are.

16
17 Ms. Carrier,

18 It may not spell out what the areas are because it's very, most often, whatever
19 documentation is submitted on that point does not spell out what those are. It says
20 whatever they are, they will be maintained.

21
22 Councilmember ANDREWS,

23 Uh-huh.

24
25 Ms. Carrier,

26 That's a level of detail that normally we don't get into at the zoning stage because we
27 have sort of building envelopes that we don't have actual footprints of buildings.

28
29 Councilmember ANDREWS,

30 Un-hunh.

31
32 Ms. Carrier,

33 In a development like this so it's hard to define those areas at this stage.

34
35 Councilmember ANDREWS,

36 All right. I understand that's normal practice. Is there any reason, have you gotten any
37 feedback from other plans that this has become an issue?

38
39 Ms. Carrier,

40 I did not. I did not.

41
42 Councilmember ANDREWS,

43 Okay.

44
45 Ms. Carrier,

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for its form or content. Please note that errors and/or omissions may have occurred.**



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1 It's typically something that attracts very little notice.

2
3 Councilmember ANDREWS,

4 Okay. All right. Okay. Well, I'm glad to hear that it has not been an issue in the past, and
5 I trust that it will not be this time because it is important that there be, you know, an
6 understanding between the parties of who does what.

7
8 Ms. Carrier,

9 I assume it's something that's discussed at site plan.

10
11 Councilmember ANDREWS,

12 Okay. All right, thank you.

13
14 Ms. Carrier,

15 If I may make one comment following up on Ms. Praisner's and Ms. Floreen's concern
16 about the grocery store, the existence of any grocery store is not a binding element.

17
18 Unidentified

19 Right.

20
21 Ms. Carrier,

22 So if you're comfortable having in the resolution, then we'll just take out the name of the
23 retailer.

24
25 Council President PEREZ,

26 Okay, it's been moved and seconded. Any other questions, Mr. Andrews? Great.

27 Madame Clerk.

28
29 Madame Clerk,

30 Mr. Denis.

31
32 Councilmember DENIS,

33 Yes.

34
35 Madame Clerk,

36 Ms. Floreen.

37
38 Councilmember FLOREEN,

39 Yes.

40
41 Madame Clerk,

42 Mr. Subin.

43
44 Councilmember SUBIN,

45 Yes.



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1
2 Madame Clerk,
3 Mr. Silverman.

4
5 Councilmember SILVERMAN,
6 Yes.

7
8 Madame Clerk,
9 Mr. Knapp.

10
11 Councilmember KNAPP,
12 Yes.

13
14 Madame Clerk,
15 Mr. Andrews.

16
17 Councilmember ANDREWS,
18 Yes.

19
20 Madame Clerk,
21 Ms. Praisner.

22
23 Councilmember PRAISNER,
24 Yes.

25
26 Madame Clerk,
27 Mr. Leventhal.

28
29 Councilmember LEVENTHAL,
30 Yes.

31
32 Madame Clerk,
33 Mr. Perez.

34
35 Council President PEREZ,
36 Yes. Passes unanimously. Next Item is Agenda Item 6, Olney Sectional Map
37 Amendment G-838. We got a piece of paper yesterday afternoon following the PHED
38 Committee hearing and I will thank you, Ms. Michaelson, for being here, for all your
39 work. I see our good friend, Khalid, is here, too. Good morning. I didn't think you were
40 here to watch the consent calendar debate. Let me turn to Mr. Silverman, the Chair of
41 the PHED Committee.

42
43 Councilmember SILVERMAN,
44 You know, Marlene's just sitting around her office not doing anything, so, [inaudible] see
45 how we're doing on that all-important appointments to the Commission on Health. Okay.



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1 Olney Sectional Map Amendment 2 to 1, majority recommends adoption of the SMA
2 which change is outlined below. Ms. Praisner did not support the SMA because she
3 didn't support the Olney Master Plan. There are a couple of changes, one of them is
4 technical in nature which is at the bottom of Page 2, making sure the SMA does in fact
5 reflect the zoning changes for the Hanks property, that's technical in nature. We did
6 have a request by the Smalls Nursery, LLC, the owner of the property to ask us to
7 rezone the portion of the property recommended for RT-10 rezoning during this SMA
8 process. This is part of an ongoing discussion with the state over what they're going to
9 buy for an intersection improvement there, and the Committee felt that the Council
10 should not delay the rezoning or require a property owner to go through the LMA
11 process based on the fact that the state hasn't finished their design work on the
12 intersection so the Committee is recommending rezoning to RT-10, the 3.11 acres of
13 the property not currently designated for the intersection improvement or parkland
14 dedication as shown on the map prepared during the state's facility planning process.
15 That was unanimous. That's the Committee's report, Mr. President.

16
17 Council President PEREZ,
18 Okay. Mr. Andrews.

19
20 Councilmember ANDREWS,
21 Thank you. I'm going to oppose the Sectional Map Amendment for the same reason as
22 Ms. Praisner. I did not support the final version of the Olney Master Plan.

23
24 Council President PEREZ,
25 Very well. Madame Clerk.

26
27 Madame Clerk,
28 Mr. Denis.

29
30 Councilmember DENIS,
31 Yes.

32
33 Madame Clerk,
34 Ms. Floreen.

35
36 Councilmember FLOREEN,
37 Yes.

38
39 Madame Clerk,
40 Mr. Subin.

41
42 Councilmember SUBIN,
43 Yes.

44
45 Madame Clerk,



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1 Mr. Silverman.

2
3 Councilmember SILVERMAN,
4 Yes.

5
6 Madame Clerk,
7 Mr. Knapp.

8
9 Councilmember KNAPP,
10 Yes.

11
12 Madame Clerk,
13 Mr. Andrews.

14
15 Councilmember ANDREWS,
16 No.

17
18 Madame Clerk,
19 Ms. Praisner.

20
21 Councilmember PRAISNER,
22 No.

23
24 Madame Clerk,
25 Mr. Leventhal.

26
27 Councilmember LEVENTHAL,
28 Yes.

29
30 Madame Clerk,
31 Mr. Perez.

32
33 Council President PEREZ,
34 Yes. Passes 7 to 2. Before we turn to legislative session, turn to Mr. Knapp.

35
36 Councilmember KNAPP,
37 Thank you, Mr. President. I just wanted to make a couple of remarks a point personal
38 privilege and it's something unrelated to anything on our schedule today, and it's just,
39 some days we just kind of reach levels of frustration and so I go down this road with a
40 little bit of trepidation.

41
42 Council President PEREZ,
43 The Red Sox?

44
45 Councilmember KNAPP,

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1 No, no.

2
3 Council President PEREZ,
4 Very frustrated with their pitching.

5
6 Councilmember PRAISNER,
7 Is he a Dallas Cowboy fan?

8
9 Councilmember KNAPP,

10 No. I'm sure many of you saw in the newspaper yesterday in the Post one of a, there's
11 been a series of articles have come through the summer as it relates to Verizon and
12 Verizon's efforts to expand their cable capacity within Montgomery County. This started
13 about a year ago and we were first, my office was first made aware of it when efforts in
14 Olney Mill resulted in many yards being torn up, cable being left strewn about the
15 properties, and so we tried to service the immediate area and get people back in touch
16 with Verizon to get things addressed. To Ms. Praisner, through the MFP Committee in
17 February had folks in Verizon come in, I believe we had five different executives here
18 from various elements of the organization, in which at that time they explained to us that
19 they were trying to undertake a massive project, trying to move very quickly and that
20 they recognized that they probably went out of the shoe a little too quickly and as a
21 result, didn't have the appropriate policy and procedures in place for them to really
22 implement that effectively, and as a result, their ability to be responsive to the issues
23 that were being raised in Olney and other parts of the County weren't being fully
24 addressed. They assured us at that time in February that they had gone back, had
25 come up with training programs for the various subcontractors that were working, they
26 had escalation procedures in place to address how to remedy any issues that arose.
27 And so we, I think all went away at least recognizing that they had at least identified the
28 issues and whether or not they were addressing them remained to be seen, but at least
29 there was a descent plan moving forward. Throughout the spring into the summer, all of
30 the same issues that were, that arose in Olney continued to be seen throughout the Up
31 County, a lot in Germantown, where there was cable strewn about, people had their
32 yards torn apart, driveways were torn up, people lost power, people lost cable. And I
33 don't believe that, I'm not sure if there were any gas line breaks, I haven't heard of any
34 of those and we continue to get phone calls. I'm not sure a day passes that we don't get
35 at least one and sometimes several. And then I know in July, because I'd sent a memo,
36 Ms. Praisner had a follow-up meeting with the Verizon folks to the MFP Committee. I
37 submitted a memo there because interestingly, they even traveled through my own
38 neighborhood and cut our cable and cut our power, and one of the procedures that they
39 had indicated they would have in place was that they would notify the communities at
40 least twice, prior to actually doing any work in a neighborhood. That didn't occur in our
41 neighborhood and from what I can tell from the reports I've received from most other
42 neighborhoods in Germantown and Olney, that hasn't occurred there either. There were
43 escalation procedures that were outlined. We, through my office, continue to try to
44 follow those with minimal resolution to those issues and, again, so finally last evening, I
45 was notified that a thousand people in Germantown lost their cable because the



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1 subcontractor went through the cable line and it continues to be a source of significant
2 frustration. And as I understand from the County Council, County Attorney, there is little
3 that we can do from the County perspective that, especially as it relates to utility lines, it
4 is an issue that is really regulated from the state, albeit apparently somewhat
5 lackadaisically, and I just wanted to take this opportunity to make my colleagues aware
6 of this. I wasn't sure of the scale of the magnitude people are aware of, but it happens
7 without fail each and every day. I was intrigued because in February I had asked one of
8 the Verizon executives could they give us a sense of where they're going to be and
9 when they going to be there so we could at least do some outreach within the specific
10 communities so the people knew what was happening. And the response I got was that
11 was that was proprietary information. Well, I don't need to ask anymore because I can
12 tell where Verizon's going to be because that's where I get the phone calls from that
13 day. I guess what I would, and this is difficult for me because I am, obviously, a strong
14 proponent of business, I think we should have a lot more cable competition. I think that's
15 going help us in the long run but I continue to be completely dismayed at the customer
16 service that Verizon is providing at this point. Having run a customer service operation,
17 if I were going to undertake a massive project that needed to be done quickly, I would
18 have systems in place to work with the community to make sure that if there was going
19 to be issues, because there likely will be, that you could actually make sure you can
20 remedy those issues quickly. I have instances where constituents call, their driveways
21 have been apart, where they've had to fight with the subcontractor to actually get the
22 driveways replaced or get them fixed. And oftentimes when they're fixed, they're fixed
23 inappropriately. I have had some people actually have been blocked in their driveways
24 by the refuse of the digging of the fixing of the driveway. The number of issues that
25 have been raised go on and on, and I guess I would like to, at this point, call upon
26 Verizon to step up to the plate and actually recognize that they are having some role in
27 this activity. It was in yesterday's paper that they still questioned as to whether or not it
28 was someone who was putting the lines out, that they were labeling where the utilities
29 were inappropriately, that they really couldn't be sure it was them. It's pretty clear
30 through the conversations I've had with all the constituents in the Upcounty that it's
31 pretty obvious this Verizon or Verizon subcontractors doing this work and then
32 oftentimes I see that Verizon will then say, well, it's the subcontractor's fault. Well, last I
33 checked, the subcontractor is working on behalf of Verizon. So it's difficult to escape it
34 at that point, and so I think it's time for Verizon to really recognize since they want to
35 approach the County, and I think are in negotiations with the Executive for a franchise
36 agreement, that they really need to be mindful of their responsibility and their elements
37 of customer service. Not even customer service yet. But really, I would call upon them
38 at this point to cease their activities until they can come up with a way to effectively
39 communicate with the community, with their potential customers, I'm not sure many of
40 them are actually going to be customers at the end of the day, as to how they're going
41 to remedy these issues, how they're going to fix them, when they're going to fix them,
42 and I would also call upon our state delegation to look into this a little more closely so
43 that we can have a better understanding of how we can control this type of activity.
44 They're working within the right-of-way as I understand it, it's within the right to work
45 within the right-of-way, but nevertheless, we're getting hundreds and thousands of



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1 constituents each and every day who are losing access to the power, to cable, just
2 because we've got inappropriate procedures in place. And I just wanted to take this
3 opportunity and appreciate my colleagues' indulgence to make everyone aware of this
4 ongoing issue that in spite of what we're seeing in the paper, it's not going away and it
5 just continues on and on and on.

6
7 Council President PEREZ,
8 Mr. Subin.

9
10 Councilmember SUBIN,
11 Thank you, Mr. President. I'd like to join my colleague, Mr. Knapp, in his call for a
12 greater responsibility on the part of Verizon. As Mr. Knapp is, I'm certainly a proponent
13 of business and having sponsored the statutes that we have on books regarding
14 competition in the cable industry, I have clearly have no problem with that competition
15 being there. That said, that competition needs to respect practices that neither
16 inadvertently nor consciously impact the citizens of this County more than any other
17 businesses. Underhanded practices, irresponsible practices are not what we had in
18 mind when we looked at competition. Not only do I understand that we're experiencing
19 the same problems that Mr. Knapp has enumerated, but Comcast has seen an
20 incredible upsurge in the number of complaints in their outages. Most of which, many of
21 which can be traced back to clusters of where Verizon is putting, are putting in their own
22 lines. There's only so much can you do to overcome numbers of interruptions because
23 of cut wires. You only have so many employees, you only have so much capability to
24 respond to this. So, clearly the people and clearly our other providers are being put at a
25 disadvantage here. So I think Mr. Knapp is absolutely correct that Verizon needs to step
26 back here, see what they're doing, see how they're doing it and what the impact is. I am
27 not prepared to vote in favor of a franchise agreement for whatever that may or may not
28 mean to a company that gets there through practices that are either questionable or
29 irresponsible.

30
31 Council President PEREZ,
32 Mr. Silverman.

33
34 Councilmember SILVERMAN,
35 Thank you, Mr. President. I certainly echo the comments of my colleagues. I have at
36 least a suggestion. I had looked into this issue last Christmas when some folks from
37 Pepco contacted me, I'm sure they contacted other folks out of concern about what was
38 happening at the time, and I had a conversation with Robert Hubbard, head of
39 Department of Permitting Services. My understanding from my conversation with Mr.
40 Hubbard is that while we do not regulate Verizon, that in order for Verizon to proceed to
41 go through their process of doing what they're doing, they get permits. And the decision
42 at the time back at Christmas time was that they did not see fit to issue a stop-work
43 order because they were working with Verizon for a remedy. Obviously, whatever
44 remedy that may have been in place has spun out of control, and I guess my suggestion
45 particularly after seeing the press release from Park and Planning about the stop-work



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1 order that was issued in Clarksburg, is that we should communicate with Mr. Hubbard at
2 DPS and if, in fact, as he had indicated before, there is authority to issue stop-work
3 orders that we ask him to brief the Council or the appropriate Committee, I assume that
4 would be T&E. MFP whichever to see to the Ed Committee?

5
6 Council President PEREZ,
7 Yeah.

8
9 Councilmember SILVERMAN,
10 To see whether or not that's an appropriate remedy in terms of what --

11
12 Council President PEREZ,
13 It may become a Public Safety issue.

14
15 Councilmember SILVERMAN,
16 Could be. Well, there's a land use component.

17
18 Unidentified
19 Right.

20
21 Councilmember SILVERMAN,
22 So, anyway. Sure. But it was my understanding that there is, that DPS has the ability to
23 issue stop-work orders in connection with the work that's going on. So, it seems like that
24 would be the appropriate question to ask Mr. Hubbard and then have that taken up by
25 the appropriate Council Committee. It's not Mr. Hubbard?

26
27 Unidentified
28 No.

29
30 Councilmember SILVERMAN,
31 It's Mr. Royalty?

32
33 Councilmember PRAISNER,
34 Yes. If I can comment.

35
36 Council President PEREZ,
37 Ms. Praisner.

38
39 Councilmember PRAISNER,
40 Well I'm very happy to have my colleagues join me on this issue which we have been
41 talking about for some time, and Mr. Royalty and I have been having conversations for
42 some time about including conversations this spring and this summer as he is nodding.
43 Actually, we need to ask the County Executive where he is on this issue. And find out
44 how we can move forward on the issue of a franchise for Verizon and whether they
45 should be going forward with pulling permits before they have their franchise. We will



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1 continue to have, and I got the same phone call last night from Comcast, that some may
2 have gotten and others of complaints from citizens and from Comcast which is dealing
3 with a very tremendous problem by virtue of some breakage in the Germantown area,
4 and my office was calling Verizon since they've had a change in personnel at that level
5 to get some clarification as to what's going on and be more than happy to schedule an
6 MFP Committee meeting but I think my colleagues have made comments today, Mr.
7 Royalty, that give us some ammunition to go forward. I'll just leave it at that.

8
9 Unidentified

10 I didn't hear --

11
12 Unidentified

13 Yes.

14
15 Councilmember SILVERMAN,

16 I appreciate what Ms. Praisner is saying in terms of the franchise agreement, which
17 we're all expecting at some point, but more specifically, it is my understanding that Mr.
18 Hubbard has the ability to issue stop-work orders in connection with permits. Irrespect,
19 because this is not a franchise agreement at this point. But I guess we should get some
20 clarification at a minimum from the Executive Branch about whether or not there is the
21 ability to issue stop-work orders in these situations because it is clear that despite
22 assurances to all of us, individually or collectively for months now, that Verizon was
23 going to get its act together with its subcontractors. That is clearly not the case, and the
24 question that really, I think, is presented is, what authority do we have to stop Verizon in
25 its tracks from going out there tomorrow and cutting the lines to another 500 or 1,000
26 people?

27
28 Council President PEREZ,
29 Mr. Subin.

30
31 Councilmember SUBIN,

32 I think that gets to what I think I'm hearing from Ms. Praisner as the underlying question:
33 How can somebody be issued permits for something that they have no authority to do?
34 If they're using the public right-of-way to lay cable or for any other purpose for that
35 matter, there needs to be a rationale because if that's the case, then why can't the
36 Silverman Communications Company, started last night in Mr. Silverman's basement,
37 start going out --

38
39 Councilmember SILVERMAN,
40 Mr. Subin is a 49% shareholder.

41
42 Councilmember SUBIN,

43 I thought you said it was 49.5. It's just as effective. And why can't he start laying lines
44 anywhere and saying, well, you know, at some point, I'm going come in to you guys for
45 a franchise, I'm going to come in with a franchise agreement and now all those



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1 subcontractors say well, wait a minute, why should we be working for Verizon, we could
2 be putting down line in the right-of-way for ourselves. And I think that's Ms. Praisner's
3 basic question and that's the jumping off point and nothing should happen until that
4 question is addressed.

5
6 Guest CLIFF ROYALTY

7 The point you made Mr. Subin, is a good one. I don't know that we want to get into an
8 involved legal discussion in this forum about the issues, there's some overarching state
9 court decisions and state law.

10
11 Councilmember SUBIN,

12 We may not want to do it here at 12 minutes after 11 because I would agree with you,
13 it's probably relatively complex and you're not going have all the sites and everything
14 elsewhere for whether it's a yay or nay, but when? I mean I think, frankly, that there
15 should be a stop-work order for everybody effective at noon if they do not have the
16 proper rationale to be going ahead. If they have permits for something that doesn't exist,
17 they shouldn't be out there doing anything because those permits never should have
18 been issued. It is just starting-off question and everything falls out from there, and
19 unless there's an answer to that question, there's an answer to no question. I think Ms.
20 Praisner has come up with the full graviment of the issue here. I think she and her
21 Committee and this Council deserve an answer and the public deserves an answer as
22 soon as possible.

23
24 Guest CLIFF ROYALTY

25 Well, and generally, for any occupation of the right-of-way, DPS does require a right-of-
26 way permit, whether you're laying lines or just simply occupying the right-of-way, and
27 Verizon has been subject to that for some time just as every other company that enters
28 our right-of-way has.

29
30 Councilmember SUBIN,

31 But we do not, it has not been the practice prior to this to issue permits for the use of the
32 right-of-way unless there was some rationale, some legitimate rationale, for doing it and
33 in this case, it would be you have, not you may have, but you have a franchise
34 agreement with the County, therefore, you can go ahead and use the right-of-way to lay
35 that line. Not your stockholders or your executives have decided that at some point in
36 some near or distant future, we are going to go ahead and do that because now, talk
37 about a potential monopolistic situation, they are occupying ground that for a
38 speculative use that somebody could be occupying for a given use.

39
40 Council President PEREZ,

41 There are a lot of complicated issues around this. Mr. Knapp asked for two minutes to
42 speak on it at 5 of 11, it's a very legitimate set of points that are being raised. We do
43 have Mr. Romer coming in to brief us on Hurricane Katrina, we have three Bills we need
44 to get through. I'd like to try and bring this to a close, if we could. If you have a burning



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1 issue, okay, 30 seconds, Mr. Silverman. 30 seconds, Ms. Floreen and let's try to move
2 on to the next issue.

3
4 Councilmember SILVERMAN,

5 Thank you, Mr. President. I appreciate the macro issue. The micro issue that I would
6 like to get an answer to is, does the Department of Permitting Services have the ability
7 to issue a stop-work order on the next round of permits that Verizon has? That's not the
8 global issue of whether they should have been issued permits or not, it's a very specific
9 question and we can get a very specific answer, and I think we need to get it because if
10 the answer is yes, they can issue a stop-work order, it seems to me they ought to do
11 that until this issue of oversight of subcontractors is resolved.

12
13 Council President PEREZ,
14 Ms. Floreen.

15
16 Councilmember FLOREEN,

17 I represented clients who've had this issue with activity in the right-of-way and in
18 easements in their yards and the like, and the relevant point, I think, is that people, the
19 response that utilities and the like give to residents is that they have a permit to do it.
20 That's the justification, so if there's a slightest bit of question as to the legitimacy of the
21 permit, I think that more than warrants stop-work orders across the board on this
22 subject.

23
24 Council President PEREZ,

25 Okay. Let's go back to the legislative session. Madame Clerk approval of legislative
26 journals.

27
28 Madame Clerk,

29 You've had journal July 26th and September 6th for approval.

30
31 Unidentified

32 Move Approval.

33
34 Council President PEREZ,

35 Moved and seconded it. All those in favor, unanimous among those present. Agenda
36 Item 7, Expedited Bill 27-05 Forest Conservation Penalties. Mr. Silverman.

37
38 Councilmember SILVERMAN,

39 Thank you, Mr. President. I appreciate the co-sponsorship on this legislation of
40 Councilmembers Denis, Floreen, Andrews, Praisner and Subin. I was, like I'm sure
41 many people, surprised to read in the newspaper, setting apart the Dan Snyder fiasco,
42 that the law actually caps the penalty at a dollar per square foot, which is obviously
43 ludicrous, particularly in the context of the Snyder situation so this legislation would
44 repeal that, allow the Council to set a maximum penalty by resolution after we get
45 information and public comment from the Planning Board and members of the public. If



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1 we're going to have a Forest Conservation law, which has any teeth, it better have some
2 significant penalties in it, and I hope we can move through this piece of legislation very
3 quickly to give the Planning Board the teeth that they need to enforce the Forest
4 Conservation law. Thank you.

5
6 Council President PEREZ,
7 Okay, if we have a public hearing set for, oh, I'm sorry. Ms. Praisner. I apologize

8
9 Councilmember PRAISNER,
10 Thank you, I'm happy to support this. There are a couple of questions that folks raised
11 because that were afraid that not having any dollar amount would leave one at less than
12 a dollar as the option and I think we need to be clear however we deal with this Bill as
13 to, at the maximum is the problem, not the dollar. And maybe an alternative is looking at
14 a way of escalating the amount rather than having no amount in there at all. The second
15 point is we've received communique from someone, or at least I have, from someone
16 who raised an equal question about the 30 cents per square foot in lieu of a forestation
17 amount and obviously, this hasn't been advertised as yet. I would assume since we're
18 setting the public hearing and stuff today, I'd would like it to be advertised broadly
19 enough to look at a substitute for the 30 cents per square foot in that element as well
20 because that seems low to me, too.

21
22 Mike Faden We will do that.

23
24 Council President PEREZ,
25 Can you make sure that the notice for the public hearing is sufficiently broad so that we
26 don't run into the issue that we ran into with Mr. Denis' Bill.

27
28 Mike Faden
29 I think it would have been anyway with the second clause of the title, but we will make
30 sure that it's brought in the forestation in lieu of fee, the 30 cent fee is also advertised.

31
32 Council President PEREZ,
33 Thank you. Okay, let's turn to calls of Bills for final reading, Bill 18-05, Offenses, Public
34 Places. The Public Safety Committee recommends approval of amendments. Let me
35 turn to Mr. Andrews.

36
37 Councilmember ANDREWS,
38 Thank you, Mr. President. As you know, the Public Safety does recommend approval of
39 this measure which would prohibit a person from urinating or defecating in a public
40 place, a place open to the public, or any other place where the person may be seen
41 from a public place or place open to the public. This is in response to complaints that
42 the County has had from business owners, particularly in the Wheaton Central Business
43 District and the area along Flower Avenue, where this has been, public urination has
44 been a significant problem there. The Police lack a tool at this point to address this
45 issue. It's not illegal. They can not cite a person for this and it is expensive to deal with it



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1 as well. So, it is a piece of legislation that was recommended in the Wheaton Public
2 Safety Audit that was presented to the County in the fall, October 2004, which was a
3 very well-done report, and this legislation is an outgrowth of that. The Committee does
4 recommend approval. It's also recommending that it be an expedited Bill so that it would
5 take affect upon signature. And that's in part to compensate for the fact that the Bill was
6 originally scheduled for consideration in July, but was pushed back because of the
7 Council discussion of how to address Clarksburg. So, the expedited Bill will, in effect,
8 replace that time period that has elapsed since then. The Bill had no opposition at the
9 public hearing, supported by the Mid-County Citizens Advisory Board, the County
10 Executive, the State's Attorney, the Wheaton Urban District Advisory Committee, and
11 the Department of Police. This law already exists in many of our neighboring
12 jurisdictions. The law would apply to a number of municipalities as well in the County,
13 but not to all. Gaithersburg, does not apply to Gaithersburg, but I understand that
14 Gaithersburg already has a law in this area, but Rockville, I don't believe, does so this
15 may be an issue that Rockville will need to consider. But the Committee report is to
16 recommend approval by the Council.

17
18 Council President PEREZ,
19 Okay. There are no lights. Okay. Madame Clerk.

20
21 Madame Clerk,
22 Mr. Denis.

23
24 Councilmember DENIS,
25 Yes.

26
27 Madame Clerk,
28 Ms. Floreen.

29
30 Councilmember FLOREEN,
31 Yes.

32
33 Madame Clerk,
34 Mr. Subin.

35
36 Councilmember SUBIN,
37 Conflict of interest on this

38
39 Council President PEREZ,
40 Mr. Subin, we haven't taken up the lease law yet.

41
42 Councilmember SUBIN,
43 Oh, oh.

44
45 Unidentified



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1 Offenses in public places.

2
3 Unidentified

4 He still --

5
6 Unidentified

7 Double conflict.

8
9 Madame Clerk,

10 Mr. Silverman.

11
12 Councilmember SILVERMAN,

13 Yes.

14
15 Madame Clerk,

16 Mr. Knapp.

17
18 Councilmember KNAPP,

19 Yes.

20
21 Madame Clerk,

22 Mr. Andrews.

23
24 Councilmember ANDREWS,

25 Yes.

26
27 Madame Clerk,

28 Ms. Praisner.

29
30 Councilmember PRAISNER,

31 Yes.

32
33 Madame Clerk,

34 Mr. Leventhal.

35
36 Councilmember LEVENTHAL,

37 Yes.

38
39 Madame Clerk,

40 Mr. Perez.

41
42 Council President PEREZ,

43 Yes. The Bill passes 9 to 0. Thank you.

44
45 Unidentified

**This transcript has been prepared from television closed captioning and is not certified
for its form or content. Please note that errors and/or omissions may have occurred.**



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1 Thank you for all restraining yourselves as well.

2
3 Council President PEREZ,
4 Yes.

5
6 Unidentified
7 Okay. And speaking about restraint--

8
9 Council President PEREZ,
10 Moving right along.

11
12 Councilmember ANDREWS,
13 All right. The next Bill is Bill 37-04, Animal Control Amendments. This Bill has been with
14 us for some time. It was introduced last fall and we've had two public hearings on this
15 legislation. One specifically to address the issue of a potential strengthening of the
16 leash law in Montgomery County, and also, we had three Committee worksessions on
17 this legislation. The Committee is recommending approval to the Council. Let me go
18 through some of the items that are the major changes in this Bill from current law. The
19 subject of our focus, the public hearing in July was on strengthening the current leash
20 law for dogs that exist in the County. The current leash law for dogs is unenforceable
21 because of a very broad exception that allows owners not to have their dogs on a leash
22 if they are under verbal command. That is an unenforceable standard for the Police and
23 causes in effect, there not to be an effective leash law in the County. I believe, and I
24 think we heard very eloquently from people at the public hearing, and it was first
25 suggested to the Committee by the Humane Society that the Council, that the County
26 strengthen the current law regarding leashing of dogs because the current law doesn't
27 work. This would establish a clear and enforceable leash law for dogs in the County that
28 are off property, off the owner's property, or the person taking care of them's property,
29 and adopting this law will protect kids and other vulnerable adults from aggressive or
30 dangerous dogs. I believe it is needed to accomplish that important public safety
31 purpose, and so the Committee is recommending that we have a clear and enforceable
32 leash law for dogs. The Bill also recommends the banning of the practice of animals
33 being sold, traded or given away on public property which has become an issue. The
34 Bill also establishes in terms of whether there is a bite that there might be some
35 evidence, whether it's torn clothing or actual puncture, for there to be standard in that
36 area. We felt that there needed to be some objective proof that there was an attempted
37 bite. The Bill also recommends that, and would require microchipping of animals that are
38 declared dangerous and all dogs and cats that are impounded at the shelter. This will
39 help relocate lost animals much faster than can be done now, but also allow the animal
40 shelter to affix responsibility if a owner does not, denies, for example, that a dog or a cat
41 is theirs. So it is a way to determine responsibility as well in addition to getting owners
42 and pets back together faster. Those are some of the major changes. There are some
43 others that are indicated on Page 3 of the packet. There is an exception to the definition
44 of a bite that would be something that could count toward a dog being declared
45 dangerous. If a dog is provoked that's an exception, it includes a one year statute of



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1 limitations for filing claims with the Animal Matters Hearing Board, it clarifies some of the
2 procedures there. We had very good input from the Animal Matters Hearing Board at
3 the worksessions. They do an excellent job, very dedicated people, and were very
4 involved in the comments and drafting and consideration at the Committee sessions of
5 the Bill. There is a definition of unwanted contact, which is defined as unwelcome or
6 unsolicited physical contact or close proximity by an animal close to a person or another
7 animal which would be expected to cause alarm in a reasonable person. We use
8 reasonable person standards in a lot of our laws and that is the standard that's
9 recommended here. The Bill continues to allow animal control officers to have the ability
10 to destroy an animal if they determine it's necessary for the immediate protection of the
11 public safety, but that is the limit of their discretion. A dangerous animal that is not an
12 immediate danger to the public must have, must go through the process that is in place.
13 The Committee recommended that the five-day period for a person to file an appeal to
14 the Board remain unchanged. It's a simple form to fill out. Does not require a lot of time
15 to do, just gets the process, gets the process going. Those are the major changes that
16 are in the Bill in the legislation. Again, the Committee recommends approval of the
17 measure. We did hear from the public on two occasions, and I think the issues have
18 been pretty well vetted. But this is the first opportunity that the full Council has had other
19 than the very brief time we spent back in June when we established the new public
20 hearing. So, let me see if there are any questions about the Committee's
21 recommendations.

22
23 Council President PEREZ,
24 Mr. Knapp.

25
26 Councilmember KNAPP,
27 Thank you, Mr. President. I have two questions. I was not available for the Committee
28 worksessions, ideally these would have been addressed there. This is one of those Bills
29 that kind of address, you know, points to the both urban, suburban and rural nature of
30 our County, and so there are some things I just want to make sure are adequately
31 addressed. We still, interestingly, have the Potomac Hunt Club that has dogs that go out
32 and actually hunt in the upper portion of our County. I want to make and so I just wanted
33 to make sure if I read this right, it looks as though that the Potomac Hunt would still be
34 allowed to do what it does? It looks, I just wanted to make sure.

35
36 Unidentified
37 That would be Potomac.

38
39 Councilmember PRAISNER
40 No, it wouldn't.

41
42 Councilmember KNAPP,
43 Some of it's private, some of it is, I think actually is in parkland, so it takes place in both
44 places.



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1 Unidentified

2 Yeah.

3

4 Councilmember KNAPP,

5 Private properties and parkland.

6

7 Councilmember ANDREWS,

8 You're correct in that's the intent of the language.

9

10 Councilmember KNAPP,

11 Right. That's why I wanted to ask the question.

12

13 Councilmember ANDREWS,

14 Excluding qualified activities that are well-supervised and specified specific --

15

16 Unidentified

17 I think I would probably comment in the definition of a qualified activity [inaudible]

18 supervised animal activities [inaudible] such as [inaudible].

19

20 Councilmember KNAPP,

21 Okay, and they can both private or in parkland?

22

23 Unidentified

24 Yes.

25

26 Councilmember KNAPP,

27 Okay. The other is and, again, this is just from the hunting perspective, obviously we still

28 have people that do duck hunting and those types of activities where you actually have

29 to train your dog to swim and retrieve. That's not necessarily hunting specifically, but is

30 in the training activities, in training for such activities. So I just want to make sure that

31 that fits within, you have it obedience and agility training but not necessarily just training.

32

33 Kathleen Boucher

34 It's the same language, Councilmember Knapp, the language you would look to is

35 whether it was a qualified activity and Mr. Lattner just read to you.

36

37 Councilmember KNAPP,

38 Okay, so would training a retriever to retrieve ducks in the river be, it's not hunting, he's

39 --

40

41 Mr. Ed Lattner

42 I would think it falls within the description you have here.

43

44 Unidentified

45 Yeah.



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1 Mr. Ed Lattner

2 Herding or tracking.

3 Councilmember KNAPP,
4 Just want to confirm.

5 Unidentified

6 Yeah, I would think it would fall within the definition of qualified activity.

7 Councilmember KNAPP,

8 Okay. And just out of curiosity, what the adjacent, the immediately adjacent jurisdictions
9 similar to it, Frederick, Howard, similar legislation or similar --

10 Unidentified

11 I think they assume the legislation. I don't know what they provide in terms of qualified
12 activities.

13 Councilmember KNAPP,

14 No, separate and apart from the previous question.

15 Unidentified

16 I think the animal control laws are very similar to ours.

17 Councilmember ANDREWS

18 Baltimore, Fairfax, and Prince Georges County and the District of Columbia all have -- If
19 I wanted to go with Frederick Howard side, just to get the more rural perspective.

20 Councilmember ANDREWS

21 We can check. I'm not sure.

22 Unidentified

23 I know, I'm not sure out of the immediate area.

24 Unidentified

25 I think Frederick County does, if I remember I was hiking to Sugarloaf and I thought
26 they'd indicated that. Okay. Okay.

27 Council President PEREZ,
28 Ms. Praisner.

29 Councilmember PRAISNER,

30 Thank you. I had a question. I had one question and then a couple of comments. The
31 question is in the definition of bite, which appears to allow a scrape to be defined as a



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1 bite. So if you scrape somebody with your claw or scratch somebody with your claw, it's
2 defined as a bite?

3
4 Mr. Ed Lattner

5 The seizing or wounding with the teeth or mouth that causes pain or injury.

6
7 Councilmember PRAISNER,
8 Right, that's the first sentence.

9
10 Mr. Ed Lattner

11 A minimum medical or cosmetic injury such as a scrape, scratch, puncture or bruise or
12 damaged clothing must be shown as evidence of a bite.

13
14 Councilmember PRAISNER,
15 So you have to show a scrape to prove that you've gotten bitten? I'm not sure I
16 understand how the term "scrape or scratch," which is normally associated with nails or,
17 you know, is going to be evidence that you've been bitten.

18
19 Mr. Ed Lattner

20 I think the attempt there was that there be some objective --

21
22 Councilmember PRAISNER,
23 I understand that but I don't want anybody coming in with a scratch and saying under
24 this, I've been bitten because you are not normally scratched in a bite situation.

25
26 Council President PEREZ,
27 Why don't you take out the "such as" and that might be one way to fix it.

28
29 Councilmember PRAISNER,
30 I mean a puncture is obviously or some kind of bruise, but --

31
32 Council President PEREZ,
33 Take out scrape or scratch --

34
35 Councilmember PRAISNER,
36 Scrape or scratch sounds like terms that are not associated with bites.

37
38 Linda McMillan

39 I do think there was some consideration if the tooth mark had scraped you and not
40 punctured you, but the original definition that came over didn't require any kind of an
41 objective standard because the issue that had come up --

42
43 Councilmember PRAISNER,
44 I understand that, and you can ask for some evidence, but if you point to something that
45 is not, can also be evidence of something that has nothing to do with teeth, I'm worried



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1 that you're encouraging folks who have had no puncture or no teeth to use that as a
2 justification for a bite. That's my point. I would recommend eliminating scrape and
3 scratch. You still can have a scrape or scratch as evidence, but it doesn't highlight that
4 as being associated with a bite, which normally isn't.

5
6 Council President PEREZ,
7 Anybody object to those amendments? Without objection, those will be removed.

8
9 Councilmember PRAISNER,
10 The other comment I had is just a comment based on the constituent kinds of
11 complaints that we've had dealing with animal control and just make the point that I, I'm
12 sorry, disappointed, I guess, that the legislation doesn't go to those kinds of issues,
13 which are quantity of animals in some cases that we've had. And there was a very, I'm
14 not sure, maybe it's because, maybe someone can tell me how it's related, but there
15 was a fairly lengthy article in the paper a year ago of a woman in Olney who was
16 concerned about a sick raccoon which neither animal control or the Police seemed to be
17 able to respond to and I wanted to make sure that this legislation, or some legislation,
18 would point to somebody, Police saying it's not a Police matter, but yet I thought animal
19 services was a part of the Police and maybe we should look at that issue. And just not
20 getting any response on the issue of personnel responding either from Animal Services
21 or from Police over a sick raccoon. I guess if someone had scraped or scratched
22 somebody, then they would have responded, but it's a little unfortunate that there was
23 no response and that was a pretty, I think, serious and significant issue. And the
24 complaints that we've had about quantity of animals, which I guess the Committee did
25 not look at, trying to legislate. I do think that's an issue that continues to need to be
26 looked at.

27
28 Council President PEREZ,
29 Ms. Floreen.

30
31 Councilmember FLOREEN,
32 Thank you. I actually was kind of taken by surprise by the information that we did not
33 have a leash law because we, you know, I kind of thought we did. Just a couple of
34 comments and kinds of questions. If a dog is in an environment that is constrained, an
35 outdoor environment that's controlled in some way, like, that say is fenced, that is not
36 the owner's premises, is that a violation of the leash law?

37
38 Mr. Ed Lattner
39 I'm not following that. If a dog is on the owner's property.

40
41 Councilmember FLOREEN,
42 If I were to bring a dog over to Mr., I don't want to talk about it, my dog is no longer with
43 me. If a person was to bring their pet to a neighbor's house that's fenced and allow it to
44 be out in the yard or, I guess in a kennel runs of the like, I'm not sure if that would be



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1 comparable. But other places that are not under the owner's control directly, but are
2 implicitly, by one way or another, would that be an issue here?

3
4 Mr. Ed Lattner, County Attorney

5 I haven't seen that actual scenario ever come up. I'm trying to imagine how is it --

6
7 Councilmember FLOREEN,

8 I mean I would like to think that we had some good sense in enforcement issues, but is
9 it, this is at large says if it is outside the owner's premises as opposed to outside a
10 confined area.

11
12 Councilmember ANDREWS

13 The caretakers.

14
15 Councilmember FLOREEN,

16 Did the Committee talk about that?

17
18 Councilmember ANDREWS,

19 Our intent was to have it apply to the caretakers' premises, whether they're the owner or
20 not.

21
22 Councilmember FLOREEN,

23 Um-hm.

24
25 Councilmember ANDREWS,

26 So that if someone's watching your dog and has them in their yard that, you know, that
27 would also --

28
29 Linda McMillan

30 I can't remember if Mr. Latner was at the worksession where we discussed this, but we
31 did discuss that the definition of owner kind of changes, like if you were to leave your
32 dog with a friend for a week because you've gone away and they want that dog to be
33 out in their yard and they have a fenced yard, that definition, then, that person is the
34 caretaker or the owner.

35
36 Unidentified

37 Right.

38
39 Unidentified

40 That is --

41
42 Linda McMillan

43 That is the discussion that we had in Committee, so if you go to a friend's house and
44 you have their permission to let the dog out in their yard and their yard is fenced in the



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1 appropriate way, that definition of owner becomes broader than the absolute licensed
2 owner.

3
4 Mr. Ed Lattner

5 You're right because the term "owner" is defined not only as the person who has legal
6 title but temporarily or permanently harbors or controls and animal --

7
8 Unidentified
9 Right.

10
11 Councilmember FLOREEN,
12 Well, that was my question.

13
14 Council President PEREZ,
15 Okay, Mr. Silverman.

16
17 Councilmember SILVERMAN,
18 I just want to follow-up on that. Max and I were discussing the legislation last night and
19 he likes to go visit a friend of his and so they're not in control of Max. Like we'll go over
20 to somebody's house for dinner and Max will join us and he will frolic in the back yard
21 with his friend.

22
23 Unidentified
24 Is he a political animal, Mr. Silverman?

25
26 Councilmember SILVERMAN,
27 He is. Very good.

28
29 Mr. Ed Lattner
30 His owner is at large.

31
32 Councilmember SILVERMAN,
33 That's right. That's right. So would that be covered also, the sort of, you know, play
34 date scenario?

35
36 Mr. Ed Lattner
37 I would think so especially with the property owner's permission.

38
39 Councilmember SILVERMAN,
40 Maybe the legislative history can reflect that, but he strongly supports the legislation and
41 we just wanted to convey that. Thank you.

42
43 Council President PEREZ,
44 Mr. Knapp.



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1 Councilmember KNAPP,

2 Thanks. I had one more question. As I understand it, this reclassifies first offense bites
3 to Class A fines, which would then have, or Class A acts which then carry with them
4 \$500 fines. Was that modified? They were \$100 fines, as I understand it.

5
6 Mr. Ed Lattner

7 I didn't think the class, I thought they were always class.

8
9 Councilmember KNAPP,

10 Or maybe it was a changing of the class which then raised it to a \$500 fine.

11
12 Mr. Ed Lattner

13 The Class A are the \$500 fine but I didn't think there was a change, I thought they had
14 always been--

15
16 Councilmember KNAPP,

17 I heard from a couple of constituents who had actually significant dog bites then that
18 was the feedback I'd received that the --

19
20 Linda McMillan

21 If you go to Circle 16, I think "unwanted contact" has been added as a Class A, it's 5-
22 203(c) which is Unwanted Contact and that included a bite and that's now been added
23 as a Class A violation.

24
25 Councilmember KNAPP,

26 Okay. Okay.

27
28 Councilmember KNAPP,

29 Now, and I just wanted to thank you. I just wanted to finish up by thanking the folks in
30 the Humane Society. They've been very helpful through all of this discussion.
31 Margaret's done a nice job of kind of taking all of the perspectives into account when
32 they've had discussions before the Public Safety Committee about the need for this, but
33 also the reasons that people might have as to why this could be a sensitive [inaudible]
34 so I appreciate that their efforts and advocacy and their sensitivity in approaching this
35 issue.

36
37 Councilmember ANDREWS

38 No surprise there, they're here with us today as well. Thank you.

39
40 Council President PEREZ,

41 Madame Clerk. Please call roll. No, Mr. Faden, we're going to call the role.

42
43 Mike Faden

44 I just want to put one Staff technical amendment in if you look in the bottom of Page 2,
45 the section that deals with sale trade on public property. That needs to be clarified as



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1 "place open to the public" because it was our understanding it was not just property
2 owned by the government, but private property such as in front of the animal shelter or
3 at a flea market, et cetera, so we would replace "public property" with "place open to the
4 public".

5
6 Council President PEREZ,
7 Okay. I'm resisting the temptation to add a definition of district dogs.

8
9 Mike Faden
10 We want to resist all --

11
12 Council President PEREZ,
13 Mr. Knapp was going to offer that amendment. He felt his dog was being left out, but,
14 yes, Madam Clerk. Ms. Floreen.

15
16 Councilmember FLOREEN,
17 You don't mean a retail establishment? Place opened to the public is a retail
18 establishment, isn't it?

19
20 Mike Faden
21 Other than a pet store, I think that was what was intended. In other words, to have dogs
22 being traded outside of the supermarket, for example, was, I believe, supposed to be
23 covered by this.

24
25 Linda McMillan
26 The problem that came up in Committee was people who have cats and dogs --

27
28 Councilmember FLOREEN,
29 I understand.

30
31 Linda McMillan
32 And they go from stores or whatever and give them away and then the folks operating
33 animal shelter had indicated they see many of those animals come --

34
35 Councilmember FLOREEN,
36 Well as long as you, you don't mean to have the supply to places where retail activity is
37 permissible.

38
39 Mike Faden
40 Where the retail activity is the licensed selling of pets, no.

41
42 Mike Faden
43 Certainly not.

44
45 Unidentified



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1 Okay.

2
3 Unidentified

4 All right.

5
6 Councilmember ANDREWS,

7 And is that language, I think, Ms. Floreen wants to make sure that the language doesn't
8 supersede the right that exists now for a pet store owner.

9
10 Mike Faden

11 I think the history can certainly reflect that --

12
13 Councilmember ANDREWS

14 Okay.

15
16 Councilmember ANDREWS,

17 Well I'm wondering if we need to indicate to say in affect except where a business is
18 licensed to sell pets.

19
20 Mike Faden

21 Right.

22
23 Mike Faden

24 We can add that.

25
26 Councilmember ANDREWS,

27 Okay.

28
29 Unidentified

30 Yeah.

31
32 Councilmember ANDREWS,

33 All right.

34
35 Unidentified

36 Okay.

37
38 Unidentified

39 Good idea. Good idea.

40
41 Council President PEREZ,

42 Madame Clerk.

43
44 Madame Clerk,

45 Mr. Denis



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1
2 Councilmember DENIS,
3 Yes.
4
5 Madame Clerk,
6 Ms. Floreen
7
8 Councilmember FLOREEN,
9 Yes.
10
11 Madame Clerk,
12 Mr. Subin.
13
14 Councilmember SUBIN,
15 Yes.
16
17 Madame Clerk,
18 Mr. Silverman.
19
20 Councilmember SILVERMAN,
21 Yes.
22
23 Madame Clerk,
24 Mr. Knapp.
25
26 Councilmember KNAPP,
27 Yes.
28
29 Madame Clerk,
30 Mr. Andrews.
31
32 Councilmember ANDREWS,
33 Yes.
34
35 Madame Clerk,
36 Ms. Praisner.
37
38 Councilmember PRAISNER,
39 Yes.
40
41 Madame Clerk,
42 Mr. Leventhal.
43
44 Councilmember LEVENTHAL,
45 Yes.

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1
2 Madame Clerk,
3 Mr. Perez.

4
5 Council President PEREZ,
6 Yes. Bill passes 9 to 0. Let's turn quickly to Microchipping of Animals, Regulation 20-04
7 AM.

8
9 Unidentified
10 Uh-huh.

11
12 Councilmember ANDREWS
13 This is the regulation to implement the Bill and provides for a \$10 fee for this I think it's
14 pretty clear, just implements what's in the Bill.

15
16 Unidentified
17 Sure.

18
19 Councilmember PRAISNER,
20 Would this require you to microchip a snake? Would it? Well, yes, I read it. Tell me, yes
21 or no. Yeah.

22
23 Mr. Ed Lattner
24 It was broadened to animals, wasn't it? It was dogs and then it was changed to animals.

25
26 Councilmember PRAISNER,
27 Yes, so would that mean that you would have to microchip a snake?

28
29 Linda McMillan
30 Well unless the director determined that it was inappropriate.

31
32 Councilmember PRAISNER,
33 So, it's only the director --

34
35 Linda McMillan
36 These are animals that come in and out of the shelter.

37
38 Councilmember PRAISNER,
39 Right.

40
41 Linda McMillan
42 So if a snake came into the shelter, if the director determined it was inappropriate --
43 [multiple speakers] appropriate and then they would have that authority is my
44 understanding.



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1 Councilmember ANDREWS

2 They have the discretion.

3
4 Unidentified

5 Okay.

6
7 Unidentified

8 The director has the discretion.

9
10 Unidentified

11 Right.

12
13 Council President PEREZ,

14 I would hope they would seek the snake's input. Okay, is this -- I think this is just a
15 majority, is that right?

16
17 Unidentified

18 Okay.

19
20 Unidentified

21 A motion.

22
23 Council President PEREZ,

24 Okay, motion. So moved and seconded. All those in favor. Unanimous. Let's turn to Mr.
25 Romer. Thank you for your time. Chief Carr, Mr. Aoyagi, come join us. Always a
26 pleasure to see you. I want to reiterate something I told Chief Carr and I think Council
27 Vice President Leventhal. I thought I heard him saying the same thing. We were at an
28 event last Friday celebrating the wonderful works of many of our firefighters from across
29 the State who were gathered here at an event and I had a number of members of the
30 Fire and Rescue Service, actually most of the people I was chatting with that night were
31 from the volunteer ranks and I had numerous people coming up to me to say what a
32 remarkable job Chief Carr did not only in overseeing the New Orleans and the whole
33 Gulf efforts, but just generally bringing people together and it was a spontaneous
34 display of respect that was one person after another coming up to me. So, I can't say I
35 was surprised, Chief Carr, but I do want to make sure that the public is fully informed of
36 the remarkable work that you have done and I'm guessing that you and your colleagues
37 have learned a remarkable amount over the last two weeks, remarkable acts of courage
38 and dedication in the face of adversity. So, on behalf of the Council, I want to thank you
39 and, again, appreciate all the work that you've done and want to make sure you know
40 that not only the residents of the County appreciate your efforts, but certainly the men
41 and women of the Fire and Rescue Service continue to come up to me and to my
42 colleagues to sing your praises. So Mr. Romer, I'll turn it to you. We said two weeks ago
43 when we met that we wanted to get regular briefings on what we're up to and the floor is
44 yours.



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1 Mr. Romer,

2 Thank you very much. Similar to what we did two weeks ago, the three of us are going
3 to all collectively contribute to a briefing for the Council and then be happy to answer
4 any questions that you may have. I'd like to start off with just some things in the
5 overview and then we'll turn it over to Chief Carr for some specifics on the fire operation,
6 fire and rescue operation, and then Gordon Aoyagi from the Homeland Security
7 perspective. Once again, all of our effort continues to be very much interdepartmental
8 and indeed, interagency. I think it proves the value of our emergency management
9 group approach that we had for years where we had literally dozens of departments and
10 agencies actually being members of the emergency management group and, therefore,
11 supporting the effort. As an example, just in the Katrina effort, we've had input from
12 Public Health, Health and Human Services, the Crisis Center, Police Department, Fire
13 Department, our Sheriff's Department, the Maryland National Capital Park Police, our
14 operational medical section out of OHR, the Department of Public Works and
15 Transportation, Public Information Office, the Silver Spring Regional Service Center, the
16 Office of the County Executive and the Office of Human Resources. Literally hundreds
17 of County employees and volunteers have been involved in supporting this event. We
18 are planning some type of recognition. We'd like to think about some type of an event
19 that we could appropriately recognize the people that have been involved. As far as
20 evacuee management, we did two very significant things. We, of course, we established
21 a single stop, single one-stop intake center at the Crisis Center on Pickard Drive, and
22 that was staffed and is staffed by both County employees and Red Cross volunteers.
23 Also at our Volunteer Service Center, we immediately put into place our hotline that
24 proved to be very valuable in terms of giving information out, collecting information and
25 matching people in need with the resources that we have available. I think both of these
26 are excellent examples of where Montgomery County has already put this infrastructure
27 in place. We didn't have to go out and invent these organizations or invent these places
28 to deliver services, they were already there. Not surprisingly, we're finding that most, if
29 not all of our intake of evacuees is from spontaneous or sponsored events. We, in other
30 words, in Montgomery County, we were not the recipient of any organized large group
31 of evacuees brought here by others. The evacuees that we took in our County are those
32 that came here on their own or came here as a result of having friends or families here.
33 In fact, the only organized event, as you know, was at the D.C. Armory. Regionally, the
34 Red Cross is currently reporting 2600 cases of evacuees, those roughly equate to,
35 could equate to families, and that amounts to their count of 4578 individuals in the
36 region who can be counted as evacuees or people adversely affected by the storm. In
37 Montgomery County, the numbers are as follows. We account for about 340 cases of
38 that total amount, which is about 802 individuals. So we have about 802 individuals that
39 are in the County otherwise affected by this. Of the total individuals that have presented
40 themselves at the Crisis Center, we provided a broad array of services, employment
41 services, health services, mental health and physical health, Medicaid information,
42 FEMA documentation and so on, but it is interesting that only about 5%, namely about
43 14 individuals, presented themselves actually seeking shelter or housing. In other
44 words, about 90% of the people that are in that cohort have otherwise found housing
45 either, again, through friends, family or other means or through non-profits, churches



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1 and things like that. As I mentioned, the only real shelter that was operated in the region
2 was at the D.C. Armory. The highest population count there was 345. It's now down to
3 105 and that number is expected to be reduced almost on a daily basis. Gordon, who
4 you'll hear from in a minute, was asked by the COG, the region, the COG region to be
5 the coordinator for the region for evacuee management and another example of where
6 our expertise is being used in the region. As you know during the crisis, we did a
7 number of things beyond sending personnel to the Gulf Coast region. Previously
8 reported about our educational institutions helping. Right now, we're counting about,
9 we're estimating about 125 students in the Montgomery County Public School system.
10 We did develop the guidelines to give County employees time off with pay if they
11 volunteer in an organized effort, and we promulgated those guidelines. We also, of
12 course, guaranteed full salary for any employee activated by the National Guard. Our
13 Ride On bus drivers did the give-and-ride collection of food and diapers and things like
14 that. To date, we've received, collected about 7,000 pounds of food and diapers and
15 things like that and our partner is Manna Food Center and Manna Food Center is
16 placing those items, first of all, in this area, for evacuees who need it, and then placing
17 the items elsewhere. We did take a look this past week at County employment
18 opportunities for those evacuees who are in need of employment. We thought, well, let's
19 take a look at what jobs we have open and how can we match potential evacuees with
20 jobs that we have available and we're doing that literally on a one-to-one basis because
21 our numbers are relatively small and manageable. We also took note as was reported at
22 the Fed, the federal government waived the I-9 requirements so that's not a barrier to
23 employment if persons do not have that type of documentation. The Katrina relief
24 concert that we put on September 10th raised \$22,300 for the relief effort. When I was
25 here the last time, I reported on some fuel supply concerns. I can tell you now that
26 things are basically returning to normal. We did have a momentary, the day I was here
27 literally, we had a supply, a potential supply interruption. We solved that through an
28 emergency procurement, but our regular suppliers are now back in the supply chain. Let
29 me see. Just a couple of other quick things to report on. The Council resolution of
30 partnering with jurisdictions in the Gulf Coast region, we've been active in that. Joe
31 Beech convened a meeting with our Staff and some of your Staff. Gordon is going to
32 report on the follow-up to that. We also had a very interesting meeting with some
33 representatives of the African-American community in Montgomery County who wanted
34 to offer their help, and we were able to explain to them what we were doing and where
35 there were some gaps where the African-American community could step in and help
36 with some of the evacuees and we were really appreciative of that. And then finally, we
37 have been active at the regional level, as many of you know, with the regional
38 conference call that our County Executive convened about a week and a half ago, and
39 his appearance at the COG board meeting last week to express some concerns along
40 with other chief elected officials about the status of emergency planning in this region as
41 a result of that the COG board directed that it work Plan B developed to take a look at
42 our current regional plans to determine what, if any, changes need to be made in light of
43 our experience with Katrina. So, those are just some general overviews. The main point,
44 I guess, is that we just have a lot of County employees and agencies engaged in this
45 issue and we will continue to be engaged. I thought next we would transition to some of



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1 our Fire and Rescue personnel deployment. I was pleased to be at the airport last
2 Sunday when our folks came back and was quite an experience to welcome the
3 individuals who have put so much into this effort, and Chief Carr's going to talk about
4 that.

5 Chief Carr,

6 Thank you. I've already briefed on some of this, I'll skim through but primarily I want to
7 tell you about the missions that are still active. We have six missions since the 28th of
8 August that we've engaged in relating to providing support to the Gulf. Four of those
9 missions are still active. The first mission, which began on August 28th, was an incident
10 support team component that supported FEMA in three locations, Gulfport, Mississippi,
11 New Orleans, and downtown in D.C. at FEMA headquarters. Those folks are still
12 deployed although we've rotated folks through and they're providing management
13 oversight as a management layer between FEMA proper and the urban search and
14 rescue teams, and they continue to engage in those activities. And I don't know when
15 we'll see them back to be honest with you at this point. But they rotate through about
16 every 14 days.

17
18 Council President PEREZ,

19 A total of how many people?
20

21 Chief Carr,

22 Currently, there are five engaged in those activities still. Two in Mississippi, actually it's
23 more than five, I'm sorry, because there's five in D.C., somewhere in the ten total
24 between the three locations. Katrina itself, our urban search and rescue team was
25 activated, as you know, on the 30th of August and that was a deployment that was
26 immediately post-storm. I've briefed you already on the impact that they had down
27 there. I did want to make mention that there were some folks that experienced some
28 respiratory illness and I want to make light of that because this is dangerous work and
29 very arduous and difficult work and we're treating them. Our Fire, Rescue, occupational
30 medical is tracking them and treating them and all of them required antibiotic treatment
31 and they're all doing fine. And one is still on light duty, the rest are back to work and
32 they're eager to do more of this type of work. And they had a huge impact down there in
33 Hancock County. The next component, the third component, was the specific
34 deployment to New Orleans that we've talked about, and as you know, 60 plus Fire
35 Rescue personnel as well as 17 Police and Sheriff, DPWT and private maintenance
36 contractors deployed and they returned on Sunday as Mr. Romer has noted. It was
37 quite a powerful trip in many ways, but most specifically from the humanitarian
38 perspective. As I briefed previously, 80% of the firefighters lost everything including the
39 Fire Chief himself, and their operation in opening 16 of the 33 fire stations was a huge
40 impact, not only on the fire rescue personnel, but on the community. In other words, all
41 of those fire stations were closed and our personnel directly opened 16 fire stations.
42 Some of the rest of them are still under water and are not able to be opened. But they
43 had a huge impact in that area and they also had a huge impact in assisting at least 25
44 firefighters get to their homes and try to recover some of their personal belongings, their
45 wedding pictures, their, you know, and the personal things. Most of the homes were



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1 destroyed and will not be re-occupable, but at least they were able to help them in
2 getting some of their personal belongs that are so important. That was the greatest
3 impact they had in addition to firefighting and providing support to the community. And I
4 guess, actually, I say the greatest, their 911 system is still down. There is no
5 mechanism to dial 911. Fortunately there are not many people in the city, and much of
6 the activity is reported by helicopter, and they say there's a problem and they kind of
7 find their way to that location. Our folks on this team, took down equipment as you
8 probably recall, we sent the team out of here totally self-contained, food, fuel, water,
9 shelter, apparatus, everything they needed to operate. The traditional assumption is 72
10 hours no re-supply. Whoops, lesson learned here, for everybody, but the other teams
11 that were down there didn't bring any personal support gear. One of the things that we
12 took, and that we always take, was communications equipment. When they got down
13 there the New Orleans Fire Department communications system was down. Our folks
14 rigged up a repeater system and set up a system that is to this moment is still utilized
15 down there. It's the only communication system they have. And it's using our 800
16 megahertz radios and repeaters and things of that nature that we normally travel with.
17 And by the way, we have a letter from the Chief saying that we are loaning this
18 equipment to him, but tremendous impact. And you talk about interoperability, their
19 system prior had no interoperability capability. The system that we put in place actually
20 allows everyone to talk, whether you're from New York, Illinois, Montgomery County, or
21 New Orleans. So tremendous, tremendous effort. Guys climbing towers and things of
22 that nature just needed to make it work, and they did. And then I'll note that on Saturday
23 night our team was leaving on Sunday morning at 4 a.m., and on Saturday night the
24 men and women of the New Orleans Fire Department threw a Mardi Gras parade for
25 our personnel. Totally unexpected totally unanticipated. Anyway, they came out with
26 beads and floats and things of that nature and it was specific to the efforts of the men
27 and women of the Montgomery County Fire Rescue Service, Montgomery County
28 Police Department, Montgomery County Department of Public Works and all that they
29 had done for the previous two weeks. It blew them away and it certainly was just a
30 tremendous sendoff and very positive. But I think for us, to hear that they thought so
31 much about the effort that our men and women made and the impact that they had on
32 their lives, is really sobering. And of course, that's why we sent them there, so they
33 accomplished their mission and in fact, they came home with a New Orleans flag that
34 was signed by, I don't know how many, a hundred, hundreds maybe of firefighters from
35 New Orleans just as a token, an acknowledgement of what we had done. But most
36 importantly for us after all of that good was done, it was just an incredible organizational
37 development exercise. Our men and women came together, career, volunteer, men and
38 women. They faced challenges as far as they're acceptance down there and
39 acceptance of how we're designed as an organization. We're not a traditional
40 organizational design and they came together, I can't say how proud I am of all the
41 members of the service and how much of an impact they had and how they kept their
42 chins up and worked right through the issues. I'll note one thing we had hand held
43 satellite phones they didn't work. That's a problem. USAR has non-hand-held satellite
44 phones on two different systems. They worked well in Mississippi. We need to, you
45 know, note to all of us, we need to be careful about these hand-held satellite phones in



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1 this type of environment. In fact, we were given some to try out here, which we used
2 during the disaster here and they didn't work well here, so we need to be very careful
3 about that. Communications from Mississippi, that time they were gone, they had no cell
4 coverage, it was satellite the entire time, so we need to be very careful about that. All of
5 those personnel were using the FEMA model as far as physicals, everybody's going to
6 have a medical valuation and it's important to note that they will be tracked through our
7 FROMS system from here on out as far as any exposure they may have. Ophelia, we
8 sent a 34-person team to Virginia Beach. They've come and gone. That turned out to be
9 an excellent training exercise. You saw on television the Virginia Beach folks walking on
10 the boardwalk, our folks were in the rubble pile and training the entire time they were
11 down there. We have three people in Mississippi now on a regional IMT. The regional
12 IMT is supporting Henderson County. Our folks are staying on the 27th floor of a 32-
13 story hotel with no electricity, no elevator, no water, no nothing. It's a building and
14 they're on the 27th floor. I don't know how they pulled that string or straw. They are
15 doing tent city-type of work for the community and they're working with Bechtel to bring
16 in trailers, so they're doing that kind of basic infrastructure, basic support work. Three
17 folks are doing that. They just went down a couple of days ago. And then lastly, we
18 have four people deployed for Rita, which is obviously occurring as we speak. Two of
19 those people are currently in Atlanta, two are currently in Miami. My guess is they're
20 going to be moving West fairly quickly and FEMA has deployed nine urban search and
21 rescue task forces and we are the tenth in queue, I believe. And that's where we are.
22 Gordon?

23
24 Gordon Aoyagi,

25 Well it's a real compliment to Chief Carr. Certainly the leadership team that he put in
26 New Orleans with regard to the impact they had, they were cohesive and they were
27 focused so congratulations to Chief Carr and the group. We have, at the home from,
28 been working very closely to try to coordinate the whole regional evacuation
29 management activity. I had the opportunity to serve as Chair and we, in fact, have been
30 able to work with all the jurisdictions throughout the region, and have had frequent
31 conference calls with regard to ensuring good coordination. Each of the two states and
32 the District of Columbia have now received a Federal Declaration of Emergency with
33 regard to shelter management. And what this means then is that local governments and
34 non-profits that incur expenses, eligible expenses with regard to housing and support of
35 the evacuees can be reimbursed. So the Homeland Security Department here is
36 working directly with FEMA to make sure that activities in Montgomery County are
37 addressed. Regionally, we're trying to ensure that every evacuee gets signed up for
38 FEMA benefits and that is sort of a wrap around of the existing benefits they receive
39 either from the Red Cross or the local jurisdictions. In terms of regional coordination,
40 working very closely with Red Cross. They have now installed their Coordinated
41 Assisted Network. This allows what we call a single point of entry for everyone that
42 they're providing services and benefits for, and then allows to have sort of a regional
43 database of services that each of the evacuees have received. And thus, there's good
44 support with each of the respective jurisdictions in terms of social services or human
45 services that they may need from the jurisdictions. Working also as part of that with the



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1 non-profit roundtable, a regional organization that has brought together five non-profit
2 organizations from Red Cross all the way to the Catholic Charities to provide housing,
3 donation management and some other activities that's helping us coordinate activities at
4 the regional level. In addition to that as part of our regional effort, we've hooked into all
5 of the HUD announcements and all the HUD programs. COG does have a housing
6 Committee there. We're sort of watching the announcement that HUD has made of the
7 \$3.5 billion that is supposed to be made available to assist in housing of persons
8 who have been displaced from the Gulf region. Nobody is quite sure what that federal
9 announcement means, much like we're sort of waiting to hear what the Presidential
10 initiatives also mean in terms of direct relief, but nevertheless, we do have the
11 mechanism put in place to sort of monitor exactly what activities are occurring. Most
12 jurisdictions are using their home funds, not their Section 8 voucher funds, and most
13 people feel pretty good about that, that it's not taking away housing that otherwise would
14 be available through Section 8. The last thing that we are working at the regional level is
15 what we call reciprocal housing inspection and background checks, and in this
16 circumstance, if a jurisdiction were to place a evacuee family with children into another
17 jurisdiction that has come about as a result of somebody, a host family donating space
18 in their existing home, we're trying to make sure that we have a reasonable protocol that
19 we can all agree upon in terms of both the housing inspection and the background
20 check that would be performed by the jurisdiction in which the host family resides. In
21 terms of our County to County initiative we think that, and we strongly recommend that
22 in order for us to adopt another County we should stay within the Emergency Mutual Aid
23 Compact arrangement, otherwise we place the County at risk as well as the individuals
24 who go down under those circumstances. I have been in contact with MEMA with
25 regard to how to best do that. We've talked a lot about some of the more rural
26 jurisdictions in Mississippi, and some of the recommendations with regard to looking at
27 some of those is there may not be a good fit between a large urban county trying to go
28 down and help a very rural county, so we have been sort of focusing around the New
29 Orleans area and see what we could there. We did make a direct offer through Chief
30 McCarty who is in place with the USAR team to Hancock County, provide them a broad
31 list of activities that we could do to support them thinking that they would seize upon
32 that opportunity when we were there. They did not and so apparently Hancock County
33 is working directly through the EMAC process. When we were down in New Orleans, we
34 left a list with Chief Bowers, talked briefly to the Fire Chief there, provided him a list of
35 things that Montgomery County could also provide including some vehicles that DPWT
36 was going to otherwise sell or salvage, and we've made that offer that if they need those
37 vehicles just on a interim basis, we could provide that as well. And have not been taken
38 up on that either. So we'll continue to work, I do have a plan to talk to MEMA again this
39 week to see if we can, in fact, find a jurisdiction not necessarily of similar composition,
40 but I think of the relationship to a big center city I think is probably more closely aligned
41 to what we can provide a jurisdiction. New Orleans looks like it's well established and
42 well set up in terms of the EMAC process.

43
44 Mr. Romer,



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1 That's our overview and we'll be happy to answer any questions and I'll also just kind of
2 indicate that we're certainly prepared to come back and would welcome the opportunity
3 to come back in maybe another week or two weeks and maybe hopefully sew
4 everything up. As you heard, we still are in operation. We still have missions going. Be
5 happy to answer any questions.

6
7 Council President PEREZ,

8 Thank you. One thing I want to clarify for the record, when you went down there, Chief
9 Carr, you were invited to go down there, is that correct?

10
11 Chief Carr,

12 Yes, I had had communication, continue to have communication with the Fire Chief in
13 New Orleans and certainly he encouraged us to interact with him directly and to support
14 our personnel as well as his.

15
16 Council President PEREZ,

17 I was rather puzzled to read the account attributed to the head of MEMA here indicating
18 that you had not been asked to go down. That's just dead wrong.

19
20 Chief Carr,

21 That's right.

22
23 Council President PEREZ,

24 I also, I work up in Baltimore and I happened to have Channel 13 on last Wednesday,
25 and I saw that person who was a little critical of you on the television. I think he was
26 down in New Orleans.

27
28 Chief Carr,

29 He was down in New Orleans supporting our personnel. Yes.

30
31 Council President PEREZ,

32 Well, I'm a little confused about what I'm reading then.

33
34 Mr. Romer,

35 We've been under the auspices of either FEMA or EMAC.

36
37 Council President PEREZ,

38 Okay. Is there any apparatus still down there?

39 Chief Carr,

40 We left two ladder trucks which were in the process of being demobilized in New
41 Orleans. The Fire Chief had a need for apparatus. Much of his apparatus is destroyed,
42 some of it is going to be able to be rehabed but it will take time, and this provided him a
43 stop gap opportunity while new apparatus is purchased. This apparatus had already
44 been replaced. Ironically we're just completing training on the new apparatus when this



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1 event occurred, and so we donated two ladder trucks and one fuel tanker that also was
2 in the process of being demoded.

3
4 Council President PEREZ,

5 Timing is everything. That's great. Okay. Well you were slightly opaque in your
6 description of the men and women of the Fire and Rescue Service and I want to make
7 sure it's clear that people understand that what was a little bit different about
8 Montgomery County is that we do have this organizational design in which we have
9 career and volunteer firefighters down there. One of, and we had men and women down
10 there which set us apart from other jurisdictions and they performed with remarkable
11 distinction not surprising to anyone up here, but often times, again, proof that when you
12 have a stereotypical view, for instance, of what women can and can't do it's just dead
13 wrong. So again, thank you on behalf of everybody for the remarkable work. A number
14 of lights were on. I think it was Mr. Leventhal was first. Mr. Subin, Ms. Praisner, Mr.
15 Andrews.

16
17 Councilmember LEVENTHAL,

18 Thank you Mr. President. And as you mentioned, I enjoyed my visit as you did and I
19 know Mr. Andrews as well to the MCVFRA banquet Friday night, and there is
20 extraordinary progress has been made from my conversations there in terms of the
21 cohesion that now exists between our career and volunteer firefighters, and this
22 exercise of banding together, going on this 32-hour drive down to New Orleans and
23 working together and have having that spirit of comradery and seeing that our volunteer
24 and career guys worked together far more efficiently and more productively than other
25 fire and rescue services from other jurisdictions that were also trying to help out, and
26 knowing that we had the resources and the desire to help, I think, has been a great step
27 forward in terms of building cohesion, and I'm far, far more optimistic today about the
28 health and strength of our Fire and Rescue Service then I was when we were
29 discussing the legislation to reorganize the Fire and Rescue Service here. I just think
30 we're in very, very good shape and you deserve a great deal of credit, Tom, for the work
31 that you've done to reach out on all sides and the praise that I heard about you,
32 specifically, at the MCVFRA meeting was noteworthy and I just want to commend you,
33 and I just wanted to ask you, I just have a couple of quick questions. What do you
34 believe you learned, if you and Gordon could both comment, from your own personal
35 visit to New Orleans?

36
37 Chief Carr,

38 Well there are a number of things. I think most specifically, we were able to validate
39 much of what we thought we would do here in Montgomery County. I think that was an
40 important thing. As I talked to the Chief directly, you know he told us what his plan was.
41 Also, at the same time, he was overwhelmed and his plan was not ultimately effective
42 enough to do what he needed to do. And their ability to reach out, their ability to reach
43 out to others through the EMAC agreement was important, but they delayed for seven
44 days, and when we first interacted with them they were done. I think that certainly an
45 important lesson is that as the leadership of County Government we will do well in a



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1 disaster if we have strong leadership that prepares and anticipates the need for outside
2 resources. In other words, doesn't sit back, and I've seen this in other disasters, where
3 you come in to support the community and because the leadership has either failed or
4 been impacted and it becomes ineffective, the outside agencies, whether they're state,
5 or most likely federal, takes over and assumes that they know what is best for your
6 community, and of course that's absolutely not the way things should be done. So
7 having strong leadership in place and the ability to articulate what the needs are and to
8 embrace the incoming resources and absorb them in the leadership, as opposed to
9 allowing them to take over, is probably the greatest lesson from a negative perspective
10 that really effected them. They waited to call for help and that greatly effected them. I
11 could certainly go on with other issues if you like.

12
13 Councilmember LEVENTHAL,

14 I'm interested in what Gordon learned as a result of being down there personally and
15 the value gained from taking the trip yourself down to New Orleans.

16
17 Gordon Aoyagi,

18 Well, you always look at little anecdotes and maybe those are more compelling than
19 anything else. I can certainly attest to Tom's comments with regard to the impact that
20 Montgomery County Fire and Rescue had, and it's not just the men and women who did
21 that, I think they took some very strategic actions. If you can think about trying to rebuild
22 the hope of a city, those who first arrive back into a community, they look for some
23 visible symbolism of their local government being present and committed to their health
24 and safety. When you think of 16 fire stations in the condition that they were in, and the
25 two fire stations that we saw, the streets were cleared. The stations were washed off.
26 The equipment was beginning to be shiny and bright and the men and women of the
27 New Orleans Fire Department were working side by side with Montgomery County to
28 bring that back. So the visual impact, if you can imagine that as a citizen or resident of
29 that community devastated by everything surrounding, and seeing that very strong
30 statement of public safety of being first in present in your community I think was
31 extraordinary. I think that's one thing that we want to make sure that we carry back as
32 we look at rebuilding a community. The second part was just some conversations that I
33 had with people about what they would do in their personal devastation and imagine
34 trying to rebuild a city without children. I say that because most of the people who have
35 been relocated away have placed their children into schools in many communities far
36 and wide, and for them to try to return, at least those that I've talked to, said they didn't
37 want to put their children through a second trauma of displacement at least immediately.
38 So again, and I think that's a symbol of the infrastructure and the tremendous amount of
39 work that they have to do. It's not just the physical infrastructure that has to come back
40 it's the teachers, it's the nurses, the hospitals, many hospitals of course were totally
41 vacated, totally evacuated. How do you bring your nurses and doctors back after an
42 extraordinary period of time as well. It was sobering in terms of its overall impact. It
43 certainly calls into question about total evacuation of large segments of a population,
44 you know, is there some viability close or nearby. But on the other hand the
45 fundamental decisions made with regard to the safety and welfare of the people of that



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1 community certainly dictated what they did. Not to call into judgment about what they
2 did, but I can tell you, the amount of rebuilding that they have to do is just extraordinary
3 and very compelling.

4
5 Councilmember LEVENTHAL,

6 I know there's a lot more that both of you could share with us and I think there was
7 value in having you down there. And I've reassured myself with the performance of our
8 own personnel that were there and I'm reassured that you and Chief Manger were able
9 to go there and take away the lessons that could be helpful in the event of a catastrophe
10 here. Let me just briefly ask about those evacuees from the hurricane area who are
11 here in the County. Two quick questions. First of all, generally how are they doing, what
12 are we learning from them, what are they experiencing? That's the first question. We
13 had had a discussion with Carolyn Colvin yesterday in the HHS Committee. We know
14 that our Crisis Center is trying hard to keep up with all of the calls that are coming in.
15 We anticipate that's a temporary overwhelming situation and it will get better over time
16 and we anticipate that we will get reimbursement from FEMA for most of our costs so
17 our own poor and needy folks who are dependent on HHS services should not be
18 disadvantaged as a result of the services that we're providing to the hurricane
19 evacuees. But I'd like to know how they're doing, generally, that's the first question. And
20 the second question is for ourselves, County Council offices, how can we help when we
21 get calls from evacuees, what should we be doing? Should we be calling 240-777-
22 2600? Should we be working with that, is there some other office, your office, Bruce,
23 that we should be working with? How can we best be of service to people who need our
24 help?

25
26 Mr. Romer,

27 Let me just take the last one. We really encourage anyone to take advantage of that
28 hotline. It's the easiest way to match people in need with where the resources are.
29 Sometimes it can be done over the phone. Sometimes the call taker will suggest that
30 that individual go to 1301 Pickard to receive services. But rather than try to either
31 establish or use other lines of communication, we encourage 240-777-2600. I met this
32 morning with the staff of our volunteer center, they're engaged, they really feel like
33 they're doing the right thing and they're well trained, they're educated in the issue at
34 hand. And I'll let Gordon speak to the well being of the --

35
36 Gordon Aoyagi,

37 First of all, again, a real testament to Carolyn Colvin and her leadership and her
38 coordination of all the activities that are going to support the evacuees. Two schools of
39 thought. We had some very early arrivals from evacuees who came here knowing what
40 would happen, and they seemed to have been well settled, they're still processing the
41 total destruction. They haven't seen the destruction so we expect that after they see and
42 realize what happened there maybe some mental health follow-up that's appropriate.
43 The more recent arrivals, of course, are those that experienced some pretty horrendous
44 difficulties either trying to get out of the city, or in terms of the temporary sheltering that
45 they experienced, and we understand from those case managers that have been talking



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1 to them is they're still processing exactly what happened to them. They're not interested
2 in employment. They're not interested in the opportunities that are presented here.
3 They're just still trying to understand what happened. But to give you a sense of the
4 types of referrals that our Crisis Center is dealing with, over 50% have been asking for
5 emergency support from Red Cross. So whatever financial assistance Red Cross can
6 provide they've been doing that. About 31% of the referrals have been asked for specific
7 crisis intervention with the programs that are provided by Health and Human Services.
8 About 11% are looking for food, donated food or clothing, so it's not an overwhelming,
9 we're not dealing with impoverished groups so to speak, and then of course, 3 to 5%
10 have been looking for some either medical assistance or clinical assistance. So just
11 based upon that, it would appear that we'll probably have more mental health and post
12 traumatic syndrome issues than we are. I think we're able to serve their basic needs for
13 both sheltering, clothing, food and medical care.

14
15 Council President PEREZ,
16 Mr. Subin.

17
18 Councilmember SUBIN,

19 Thank you. Chief Carr, you were rather effusive of praise of your people from your
20 Assistant Chiefs on down, but I think you left one person out, and that was yourself. I
21 was fortunate in being able to observe what was, fairly close up, what was going on
22 over the last three weeks, and frankly, being involved in overall situations like that for
23 quite a long time. I've got to tell you, it doesn't get any better than Tom Carr's
24 leadership. As a leader of folks, whoever or whatever they are, whoever, where ever
25 they come from, Tom knows how to get the best out of all of them and get them all
26 walking away from the situation having learned how to lead. It's clear to me now, if it
27 wasn't before, which I think it was but, very clear now that there are just a number of
28 people who Tom allowed to get the experience that they needed to take over in any
29 situation. Everybody in the Assistant Chief and Battalion Chief level were in leadership
30 rolls in extraordinary circumstances with a lot of pressure and they were roles that most
31 Fire Chiefs in most areas don't even get to observe. There were a lot of lieutenants and
32 captains and some young firefighters who were put into those roles who could step in as
33 soon as the switch is thrown here. And Tom was there, stepped back and watched,
34 knew when he needed to get in and when not to get in and let them do it and if they
35 made a mistake, oh well, if you learn from it, now let's move on. So I think that was
36 great. The roles played by Ritchie Bowers and Tom Didone in New Orleans were
37 incredible. They fundamentally went down there and Ritchie played Fire Chief and Tom
38 played Police Chief for a number of days before everybody else could get down there
39 and get their acts together, and Ritchie's assessment of the needs of that city and the
40 Fire Department were extraordinary. And the protection that Tom Didone afforded them,
41 these are not lessons that one gets in the books. They have to be gained on the ground
42 and we are fans, I think, of two teams here, police and firefighters that are very broad
43 and very deep. That is the best feeling I think that a public official can ever get. And
44 clearly it was Tom Carr and Tom Manger's leadership with those folks that did it. And
45 I'm very comfortable that should we face any kind of situation like that we're in good



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1 shape. What do I think are the lessons that the folks who went down to New Orleans
2 should have gotten out I'm not convinced that that was the important piece. The
3 important piece was they took time out and went down and were with our folks who
4 were working 24-hours a day away from their families for several weeks in just the most
5 primitive of situations and let those folks see that their leaders cared to go down there. I
6 think that was probably the best thing that we could do. The only questions that I have
7 really are for back home, and I don't think we need the answers now, Bruce, but just, I
8 think, these are issues that we just need to track and maybe tighten up a little bit. On
9 the fuel supply issues, it was my understanding that initially the school system was not
10 included on those emergency re-supplies. If they were, fine, if they weren't let's just
11 make sure that standard operating procedure everybody gets covered by that umbrella.
12 Not here to fix the blame just want to fix the problem if there was one. I don't even need
13 to go over that.

14
15 Mr. Romer,
16 Okay.

17
18 Councilmember SUBIN,
19 The generators, I know after 9/11 we did speak about the need for generators and the
20 satellite phones for here. I just want to make sure if we don't have enough of the
21 satellite phones to send two down with a team like this, and not have any here, then we
22 really need to look into purchasing a couple extra so we can all be covered. I wouldn't
23 anticipate that situations are always going to mean it's only going to be one or the other,
24 we just need a plan for both.

25
26 Mr. Romer,
27 We'll take a look at it.

28
29 Councilmember SUBIN,
30 On the generators, I understand that we did get the six generators that we had talked
31 about after 9/11, but that schools are not hooked up to accommodate them yet.

32
33 They're not prewired.

34
35 Councilmember SUBIN,
36 I'm sorry, prewired. So that we probably need to go in now and get them prewired in the
37 event that we face having to shelter folks in there not saying whoops they're not
38 prewired to accommodate those generators. But all in all I think as Ritchie Bowers had
39 said, impressed upon his folks take the high road. They did it, we did it, you did it just an
40 extraordinary reaction on the home front here and down there by all three of you to
41 make sure that it worked, and nothing to diminish Gordon or Bruce, Tom, don't get no
42 better bud. Just don't get no better. Thank you. I also have two things. I'm sorry just real
43 quick. One is, one of the people operating behind the scenes was Tom's wife, Ann, who
44 made sure that the family support networks for folks were in, and the other thing is that
45 unfortunately, didn't turn out the way we would have wanted, but the folks down there



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1 Tom Didone especially were very responsive. We had at least one individual who's
2 father was found right before our folks did come back. While unfortunately he was
3 deceased, at least those folks were able to bring closure to that.

4
5 Council President PEREZ,
6 Thank you. Ms. Praisner you're next.

7
8 Councilmember PRAISNER,
9 Thank you very much. These briefings are very useful because they not only by
10 televising them provide information for us but also provide information for our
11 community, and I think what's always important as we go through these get ready make
12 a plan initiatives in the COG area and all of the meetings that have you scheduled in the
13 community and with targeted populations to make sure that folks understand their
14 responsibility. These briefings help heighten that and continue that because this is not
15 just a employer, employee issue, this is also a general public issue. As we did after
16 September 11th have all those briefings for folks in the community to make sure they're
17 prepared and that the families, their individual families had made plans, the timing of the
18 COG initiative on get ready make a plan for individual communities is poignantly timely
19 from a standpoint of the hurricane season that we're in. I don't think folks at COG and
20 Public Safety Committee meetings that I've been in related the two necessarily other
21 than October and Public Safety kinds of issues, but the timing is very helpful to use for
22 community people. You highlighted, Tom, the issue of communication, and what this,
23 the reviews that I'm going through with other folks at the national level on these issues,
24 heightens for me two things. One, our communication systems, which of course I think
25 Congress will now focus a little more attention on the Hero Bill or some of the other
26 things to release some spectrum that's necessary and needed, and some of the other
27 initiatives, but it also highlights that a piece of equipment may work very well in one
28 place but not necessarily in another. Anyone who's looking for a one size fits all solution
29 for every and any incident across this country is unrealistic and can, in essence, waste
30 time and money by trying to go down that route. So with satellite radios where they work
31 and where they didn't work, my understanding of the reason why the communication
32 systems in Mississippi failed was because of towers that were down because of the
33 winds. The reason why the communication system in New Orleans failed is because the
34 generators were flooded and because they didn't plan ahead from a standpoint of
35 assumptions about where generators at tower sites, et cetera, should be given the
36 potentials for flooding. So the same solution, or the same issues, would not be
37 comparable even in one incident depending upon locale. Those are important
38 messages for us to carry nationally as well as locally, whether you're in Potomac or
39 Dickerson area or down in Silver Spring. They're the kinds of things we need to
40 remember as a region as well. The other piece of communication that clearly did not
41 work is not a technical piece. It's the way you operate and governance and procedures
42 and command and control issues. Those on a national level clearly broke down both
43 from individuals who did not get assistance and therefore chose alternative methods of
44 seeking assistance, and on the national, federal, state, local communications, meaning
45 how you operate and how you work together. And I think the uniqueness of our



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1 structure and their inability, or the awkwardness initially of not understanding our fire
2 structure, is an example of folks not understanding the command and control structures
3 and the structure we have in place nationally are not necessarily responding to it. So
4 there are, as Gordon said, legitimate reasons for not just rushing to respond if you
5 haven't gotten authority to do so because there are legal and financial issues associated
6 with that, working with the state level. I don't think the public, which says why aren't you
7 doing something, understands that if everyone just rushed in you wouldn't necessarily
8 have a better solution, that you've got to be authorized and approved to go in, and that
9 there's a legitimate safety reason both for the folks there on the ground who can't
10 handle the quantity of folks coming in if they don't know who's coming, and also for the
11 folks who are coming in who are not necessarily going into a safe situation. So I think
12 we've learned from this. What I would like is some feedback offline on the
13 communication systems stuff because we're going to be doing some meetings within
14 the next few weeks on that and any personal feedback that you have on that would
15 help. Secondly, I think we need to continue to gather information on the outcomes of
16 these community meetings. The kinds of attendance, success and, also, if we are
17 modifying our messages based on what's been the lessons of this experience. I know,
18 Gordon, you and I talked last time you were here about maybe keeping three-day
19 supply may not be a good idea anymore. We may want to encourage the upper end of
20 that spectrum of days. So I think from a standpoint of communication systems Congress
21 is looking at a lot of regulations that need to be waived or legislation that needs to be
22 modified, if there are others that you can think of we're in the process of pulling together
23 a packet of those, I would appreciate that. Thank you.

24
25 Council President PEREZ,
26 Mr. Andrews followed by Ms. Floreen.

27
28 Councilmember ANDREWS,
29 Thank you. Well I think the response of our County career and volunteer firefighters and
30 police is in the finest tradition of public service. What you kept coming back to, Chief,
31 was the human dimension, the impact that you saw on the firefighters in New Orleans
32 who had lost everything in most cases. So you didn't just shore up 16 fire stations, you
33 shored up hundreds of people, and that is just as important to keeping them together
34 and helping them stay together as a cohesive force and I'm sure that that personal
35 impact was profound and will be lasting for our folks who were down there. The thing
36 that concerned me the most when we talked about it earlier was the conflict and you
37 alluded to it here, the conflict between some of the units, not our unit, but the conflict
38 between some of the other fire departments in terms of working with us. My question is,
39 how should that be resolved under ideal circumstances? How can we put in place at the
40 national level or regional level mechanisms so that conflicts between different fire
41 departments, and again, it was another fire department that didn't want to work with us
42 in some ways. How can that best be resolved in the future?

43
44 Chief Carr,



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1 There is a process that is ongoing to nationally credential firefighters. And it's in its
2 infancy and we have had input, and I believe that certainly one of the things that we've
3 tried to do here in fact you're going to see it in the next few weeks with our IECS
4 regulation, or training regulation is to try to say, if you meet these requirements we don't
5 care what you're background is, man, woman, volunteer, career, you can do the job and
6 making sure that that credentialing is tight enough that it provides confidence to
7 whoever's dealing with those folks. I think that that's the best way to get to it at a
8 national level, and that's in process, that template's there. We do have some concerns
9 about some of the direction it's going but at least they're going in a direction that when
10 Illinois firefighters work with Maryland firefighters and they're a red card, that's a Forest
11 Service term, that means something, and you don't have to worry about what that
12 person can or can't do because they have a red card. That means something. That's
13 where we need to be and that's where certainly as Montgomery County we're pushing
14 to be because we are a diverse service, and a unique service, and others aren't used to
15 the way we operate. And so I think that's the best answer.

16
17 Councilmember ANDREWS,

18 Okay. Well, our folks really did themselves proud and thank you for your important part
19 in making it happen.

20
21 Chief Carr,
22 Thank you.

23
24 Council President PEREZ,
25 Ms. Floreen.

26
27 Councilmember FLOREEN,

28 Thank you. We've been going on with this for a while so I'll just make a couple of brief
29 comments. First of all, I wanted to compliment you all and Chief Manger for your
30 management of the situation and really for the inspiration as well that you've provided to
31 our people down there when they were down there. I think that this has been from all
32 the reports that I've heard especially over the weekend, this was a very challenging
33 environment for a combination of volunteer and professionals working together. Men
34 and women working together in environments where apparently this is not an accepted
35 practice. And I think we've all learned a lot about how well we're doing and I think that
36 from what I've heard from the volunteer staff over the weekend, it has been a significant
37 experience for everyone. I think our folks deserve tremendous credit for bonding
38 together for what I gather winning an important football game and a brief moment of
39 relaxation down there where the team spirit of our folks was enhanced and really very
40 significantly supported, and I think a tremendous amount of credit goes to you all for
41 making sure that's happened. So thank you. I think it's gone as far towards solving any
42 lingering issues associated with the coordination of the Fire and Rescue folks over the
43 past couple of years as anything every could have. And I think it's a real statement of
44 Montgomery County's leadership in these areas that our people have done so well and
45 have been able to focus on the important things done in Louisiana. So thank you all. I



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1 have one quick question. Gordon, what's the time frame for what you're doing with the
2 Council of Government's folks?

3
4 Gordon Aoyagi,

5 We're not sure, we're certainly watching Rita to see if Rita has an impact on further
6 evacuations of the evacuees, but if all goes well the District of Columbia has indicated
7 that with regard of the hundreds that they have in there that they hope over the next
8 two, three weeks that they'll be able to finish out placement. The sense that most of the
9 jurisdictions are, I don't think we've said we've reached our peak, we see trickling in of
10 continuing evacuees, so we hope that we can continue to coordinate. I think our
11 regional framework in terms of our having conference calls, it seems to be well
12 established now in terms of procedures and I think we're looking at, unless we get a big
13 rush probably another two or three weeks of conference calling at the regional level.

14
15 Councilmember FLOREEN,

16 So we will get something done on the Council of Governments agenda at some point
17 later on just sort of as a wrap up, regional wrap up, lessons learned sort of thing?

18
19 Gordon Aoyagi,

20 Certainly not only from that piece of it, but the Board's directive to look at the entire plan
21 and you will see that coming back to you as a Board member with this component in it.

22
23 Councilmember FLOREEN,

24 As you saw, I think it was a very helpful conversation that we had down at the board the
25 other day and clearly this is on everybody's mind having the two County Executives
26 there brought that point home in a way that nothing else could have. So I think that was
27 a very good call. So thanks.

28
29 Gordon Aoyagi,

30 Thank you.

31
32 Council President PEREZ,

33 Okay, thank you again for this briefing. I think it was, whoever said it, it well said that it
34 not only helps us learn more but it does help the public learn more and feel good that
35 our tax dollars are going to remarkable service. So thank you again.

36
37 Mr. Romer,

38 Thank you.

39
40 Council President PEREZ,

41 I'm sorry, we're going to reconvene at 2:00 instead of 1:30 because there is some other
42 business we need to do at lunch time, some of us at least, and so we'll reconvene for
43 the public hearing at 2:00. If people to note that on the sign. And Mr. Carver if you could
44 let people --



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Councilmember LEVENTHAL,

Good afternoon ladies and gentlemen. This is a public hearing on the spending affordability guidelines for the FY '07 through 2012 capital improvements program and the FY'07 capital budget. These guidelines are to be based on how much additional debt the County can afford given certain financial and economic factors specified in Chapter 20 of the County Code. The guidelines specify the maximum level of debt that should be approved. The guidelines for the aggregate capital budget may not be exceeded unless approved by seven Councilmembers. After considering the public hearing testimony and other relevant matters, the Council may adopt guidelines that differ from the proposed guidelines. A Management and Fiscal Policy Committee worksession is tentatively scheduled for September 26th at 9:30 a.m. Persons who wish to submit additional information for the Council's consideration should do so by the close of business on Wednesday, September 21st. Before beginning your presentation, please state your name clearly for the record. Group A consists of Board of Education President Patricia O'Neill, Mary Ellen Venzke, and Marney Jacobs. Please join us. And President O'Neill, you'll go first.

Deputy Staff Director Glenn Orlin

Can I add briefly the MFP Committee moved the time of that meeting to 9:00.

Deputy Staff Director Glenn Orlin Thank you that just happened.

Deputy Staff Director Glenn Orlin Thank you.

Pat O'Neill,

Good afternoon, Mr. Leventhal, and members of the County Council. I am Pat O'Neill, President of the Board of Education. Thank you for the opportunity to provide testimony as you consider setting spending affordability guidelines, as well as other fiscal assumptions for the FY 2007 and 2008 capital budgets and the FY 2007 to 2012 Capital Improvement Program. With me today is Dr. Charles Haughey, the Vice President of the Board of Education. The Board of Education is grateful for the Council's past support for our capital projects. Your support of our additional funding requests in FY 2006 to cope with the average 20% increase in construction prices that occurred last year has enabled us to deal with facility health and safety concerns, address capacity issues, and continue our programs to maintain the school systems infrastructure. We understand that the Council must look at economic indicators and not necessarily needs as it develops its SAG guidelines for the upcoming CIP. In the briefing, the Management and Fiscal Policy Committee received last week on economic indicators, the news seemed optimistic. I would like to recognize that gasoline prices are at historic highs and costs in the construction market have shot up by 20%. It is essential that we continue our efforts to insure adequate school facilities. As you know, the state of Maryland's Bridge to



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1 Excellence legislation requires Montgomery County public schools to provide full day
2 kindergarten to all children by September, 2007, and identify programs to allow all
3 eligible children admittance free of charge to publicly funded pre-kindergarten programs
4 in September of 2007. The state mandate, along with program initiatives such as class
5 size reduction that have been supported by the Council to improve student performance
6 will require more classrooms and more support spaces in the coming years. In the
7 spring, MCPS Staff presented the County Council with an analysis of increase in
8 construction prices that were effecting local and national markets. Several
9 Councilmembers commented on the thoroughness of the data and analysis that was
10 presented and there was general agreement that construction prices were substantially
11 higher than previous projections used to develop the FY 2005 to 2010 CIP. The debt
12 levels included in the SAG guidelines advertised for the upcoming CIP will only increase
13 the amount of general obligation bonds available for the six-year period by 4.5%. More
14 importantly, the guidelines only increase debt limit in the first two years of the CIP by a
15 little over 1%. In addition, the fiscal assumptions for FY 2007 to 2012 CIP for total
16 revenue from sources other than County general obligation bonds remain virtually
17 unchanged with the levels included in the FY 2005 to 2010 CIP. These levels of
18 anticipated funding will not begin to cover the general increase in construction prices
19 that have incurred since the previous CIP was adopted. I do not want to be an alarmist
20 and want to mention again how much we do appreciate the Council's support of our
21 previous CIP request, however, it is of concern. Thank you.

22
23 Mary EllenVenzke

24 Hi. Good afternoon. I'm Mary Ellen Vinski. I'm the CIP Manager with the Park
25 Development Division for Montgomery County Park and Planning, and I'm here today to
26 ask you to support the Staff recommendation of the spending affordability guidelines for
27 Park and Planning bonds for the '07-12 CIP. The Commission's Secretary Treasurer
28 has reviewed the recommendation and she has determined that the recommendation
29 guidelines for Park and Planning bonds fits well within our debt capacity. And we thank
30 you for your consideration of this recommendation.

31
32 Council President PEREZ,
33 We thank you for your brevity.

34
35 Marney Jacobs,

36 Good afternoon, Mr. President, and members of the County Council. I am Marney
37 Jacobs here with Jim Keenan as co-chairs of the MCCPTA CIP Committee. Thank you
38 for the opportunity to testify as you consider how much to raise the spending
39 affordability guidelines for the FY '07 FY '08 capital budget and the FY 2007-2012
40 capital improvement program. We thank you for your past support of funding for our
41 schools and for the additional money deeded in FY '06 due to increased construction
42 costs. MCCPTA urges you to continue to demonstrate your commitment to our school
43 children by voting for a substantial increase in the SAG. We support an aggressive use
44 of funding authority to take advantage of affordable interest rates to keep up with
45 increasing construction costs and to prevent delays in our CIP projects. The amount



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1 necessary must be adequate enough to fund both approved CIP projects and to go
2 ahead with future capacity and modernization projects. Cost estimates indicate that to
3 build projects currently under construction may take as much as a 20% increase and
4 there are a number of new projects that must be added to the budget. For the past few
5 years MCCPTA has focused on our true long-term facilities needs so that every child
6 has the opportunity to attend school in a safe, secure, modern facility. We are on record
7 with a long list of needs and we know you're well aware of our priorities. Just last week
8 our President, Cindy Kersh shared MCCPTA's budget priorities including some health
9 and safety concerns. We see that increased costs for construction and labor, soaring
10 costs for supplies in addition to rising fuel costs are multiplying the dollars needed in
11 unprecedented terms. A 20% increase in cost without comparable increases in CIP
12 funding will result in delays of approved projects and extend to be determined dates for
13 many needed repairs, replacements and expansions. We must avoid falling further
14 behind. We cannot ask our children to accept unhealthy and unsafe conditions in their
15 buildings and we hope not to undo the progress of class size reduction by a lack of
16 adequate space. Our County schools are known for their world class excellence and we
17 cannot afford to have this reputation tarnished by a lack of adequate facilities. We
18 understand that increasing the SAG is not based on need, which we clearly have, but
19 on affordability and fortunately, the timing is right. Borrowing rates are relatively low, our
20 economy continues to be good, and while we will incur more debt, in the end will have
21 made great progress toward every child attending school in a safe, secure, and modern
22 facility. We're asking you to be aggressive this year in meeting one of the highest
23 priorities for our citizens. We urge you to vote to raise the SAG to the maximum level.
24 Thank you for this opportunity to testify.

25
26 Council President PEREZ,
27 Thank you. Ms. Floreen.

28
29 Councilmember FLOREEN,
30 Thank you. Ms. O'Neill, where would you have our, we, what numbers would you have
31 us arrive at for the spending affordability apart from more? Do have you a specific
32 recommendation, 20% increase, is that what you're saying?

33
34 Pat O'Neill,
35 I'm saying that we will be faced with our 20% increase and what will happen at the
36 current rates if their SAG is not increased and you do not move forward, we will be in
37 the position of delaying projects once again, and the Council has demonstrated its
38 commitment in the past to keep trying to get us back on track. Do I have the knowledge
39 for you to tell you what to do? You're in the decision making roll. I wish I was. Thank
40 you.

41
42 Councilmember FLOREEN,
43 So you don't have a specific number that you propose? Okay thanks.

44
45 Councilmember FLORENTA's do.



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1
2 Council President PEREZ,
3 Ms. Praisner.

4
5 Councilmember PRAISNER,

6 Thank you all for your testimony, I appreciate it very much, but Pat, I would appreciate it
7 if staff that are attending the meeting would carry back to you all of the information.
8 Because while there are some very positive issues associated with the economy, there
9 were also reported to us at that meeting and I think Mr. Andrews and Mr. Denis would
10 attest some red flags that our economists highlighted including some concerns about
11 energy costs and what implications there are across the board on that issue. Secondly,
12 a lot of the folks who are buying these houses are buying houses with interest only
13 loans and that has a significant implication for us fiscally over the long run if things start
14 to crumble in that area. Finally, the spending affordability process for the capital budget
15 is not one of raising spending affordability, it is of assessing what spending affordability
16 should be. We have on occasions lowered the numbers from a previous year because
17 of the concerns about the economy. I don't expect us to do that but it isn't a raising
18 process, I want to make sure folks understand that. It's a review process that might lead
19 us to raise the numbers but has on occasions led us to lower the numbers. It's an
20 assessment of what we can handle. What we also heard from folks is that the bond
21 rating agencies are very concerned with the fact that we are increasing projects that are
22 bond funded that may or may not be eligible for bond funds and are using current
23 revenue in the operating budget to fund ongoing operating budget expenses which is
24 also something folks advocate for and will be back in another hearing, and we have to
25 set aside current revenue, not bond indebtedness, for capital budget projects. So we
26 have a variety of challenges associated, not the least of which is the counties may
27 continue to meet their school construction or try to reach it but without adequate State
28 support that's one-third of the money for school construction. Last year was a struggle
29 to get around \$250 million if we're not at that level and greater in this coming year from
30 the State, we aren't going to be able to meet those obligations either, so there are
31 assumptions for State funding within the CIP funding process. I know that the Board of
32 Education is working on that issue but we need to be focused on that as well.

33
34 Pat O'Neill,

35 The issue, Ms. Praisner, on the State funding, I know that you probably have seen the
36 letter from the Big Six, the County Executives, and the issue of 400 million as a goal is
37 one that --

38
39 Councilmember PRAISNER,

40 Well I've had conversations with Nancy Copp and others and I think we have to be very
41 careful about putting a number out there specifically at this point.

42
43 Council President PEREZ,
44 Mr. Silverman.



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1 Councilmember SILVERMAN,

2 I'll just pick up on, thank you, Mr. President, I'll just pick up on the last part. I'm very
3 pleased that Jim Smith has taken the lead on this issue and is not this governor who
4 chose to put money into school construction, it was the General Assembly led by a lot of
5 folks in our delegation and in other counties around the State that are facing the same
6 school construction costs and needs that we are, so, I'm glad that marker is out there.
7 The challenge may be the decision about what to do with a billion dollars and the
8 suggestion that that money will come out of operating. The fact of the matter is that the
9 Board of Public Works and the General Assembly is well aware, as is Nancy Copp,
10 since she highlighted it that there is more than adequate capacity, bonding capacity at
11 the State level to fund school construction. They didn't actually have to take it out of
12 operating monies last year, but they chose to, so I hope we'll not necessarily get locked
13 into suggesting that the same method that was used last year would be used again this
14 year. Glenn, I'm very concerned about the school construction costs and other
15 construction costs that we'll have, and we're in a little bit of a chicken and egg scenario
16 which is we, of course, don't see the County Executive's capital budget until mid-
17 January and we have to set spending affordability guidelines well before that. I would,
18 I'm looking forward to working with you on some scenarios so that the full Council and
19 the Committee obviously has options available recognizing the six criteria that we have.
20 I've seen preliminary numbers but I would like to at least understand what the envelope
21 is in terms of still falling within the six criteria that's usually there. You usually do this on
22 annual basis and so I would ask you to lay out various scenarios including the what you
23 would consider to be the maximum scenario so that the Council has a full understanding
24 of what our options are presented. The numbers that are here for public hearing
25 purposes, in my opinion, are woefully inadequate if we're going, both from a need
26 standpoint which is not what we're supposed to be focused on, but frankly from an
27 affordability standpoint. Given our continuing situation with low interest rates, I think it is
28 important for us to continue to take advantage of that opportunity, and I think we need to
29 make sure we have those options on the table for Committee and full Council so, look
30 forward to seeing those numbers. Thank you.

31
32 Councilmember PRAISNER,

33 Can I add if folks have any specific proposals it takes a while for the Department OMB
34 and folks to work through those, so if you can get them to us before the packet gets
35 developed then we can work through that and have them for us. It also would be useful,
36 I think, given several comments about low interest rates to have some discussion by Mr.
37 Firestone of the relevance or the lack thereof of interest rates comments.

38
39 Deputy Staff Director Glenn Orlin

40 I was going to say, if you have ideas for other scenarios I'd actually like it by the close of
41 business tomorrow at the latest, maybe sooner, because it does take. I'll need some
42 time to run through it and my packet's due Thursday. So I did look at a scenario which
43 was 220 so we have the numbers for 220 as well as 215 and 210. But that was the
44 range, 210, 215, 220 per year.



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1 Councilmember SUBIN,

2 On the issue of interest rates, I guess that the Fed is about to or already has announced
3 within the last ten minutes or so what they're going to do next but, again, we're going
4 into a flawed process that I think this year is going to really bare it's flaws because we
5 don't know what the impact of Katrina is going to be from two very important aspects for
6 us. One is the inflationary increases resulting from a diminished domestic petroleum
7 output, and the other is, and something I haven't heard much of because it really isn't a
8 focus right now, which is what is going to happen to building materials? And so how
9 does our school construction program feel those effects? And I don't think that we're
10 going to be able to nail those numbers down in the very near future. We'll know later on
11 this week what the follow-up to Katrina is going to be. And for years we've been saying
12 we're going to get rid of portables at the schools and we've really not made a dent. If
13 anything, our policies, which are good ones, a smaller class size have made them even
14 more numerous than they were. Of course those who would take advantage of any port
15 in the storm say it's growth that's causing that to happen but, growth in the schools has
16 been relatively flat. So Glenn, I'm going to want to know what it's going to take outside
17 of the program that's already on the books, to get rid of two-thirds of those portables
18 over the next three years and make them permanent classrooms? And is that scenario
19 under a bonding umbrella or do we then have to go to, or can we go to a current
20 revenue scenario to do that? I mean we've been making these promises and we haven't
21 been able to come through and there's all these charades about what's causing the
22 need for the trailers but, you know, we do have these policies and the policies aren't
23 going to go away and growth in the school system is flat. And I think it's expected to be
24 flat over the next couple of years. So again, though, the bottom line is, it is now
25 September, and we're trying to come up with scenarios that frankly, never were worth
26 anything and are worth even far less this year, and by the end of this week, are really
27 ready for the garbage heap.

28
29 Council President PEREZ,
30 Mr. Silverman.

31
32 Councilmember SILVERMAN,

33 Thank you, Mr. President. Just following up on earlier comments with regard to interest
34 rates. Can you ask Tim to provide, I mean unless we already have this, are the interest
35 rates on bonds that we've issued over the past five years so we can sort of see what the
36 trend lines are? One of the things that I know is kind of a disconnect is Alan Greenspan
37 and the Fed have raised short-term interest rates, you know, 14 times or whatever it is
38 in the last year and a half and it obviously hasn't had no impact on mortgage rates that
39 are out there, but I don't know what the linkage is if any. So I think it would be important
40 for us to see what the trend line is. The other thing is, I just, so you know, I don't have a
41 scenario in mind, Glenn, but I was serious in working backwards from what is the
42 maximum scenario that keeps us within the criteria that we, you know, that we have. So
43 I don't have a number in mind because you know that that is a function of, its the math,
44 its plugging in.



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1 Deputy Staff Director Glenn Orlin Let me just add, the problem with the analysis that we
2 do do is we only look out six years. And in the past it's not been too much of a problem
3 because the debt that's showing actually declines a bit over the six-year period, but
4 we're now entering a period where that's not happening or it's going up because the big
5 issues back in the 80s are now been paid off. They're gone. So that's what loaded up
6 the numbers really more than anything else. We're now building off of numbers from the
7 early 90s on. And so the last few years, when we've had very, very large bond issuance,
8 is what's really more of an impact.

9
10 Deputy Staff Director Glenn Orlin So the numbers are actually trending up, which is a
11 bad thing.

12
13 Haines
14 Glenn Orlin,
15 They're still within the six-year period, probably okay but it's in the wrong direction.

16
17 Councilmember SILVERMAN,
18 Well I understand it's an art not a science but that's what you get paid the big bucks for.
19 Thank you, Glenn.

20
21 Council President PEREZ,
22 Ms. Floreen.

23
24 Councilmember FLOREEN,
25 Thank you. Ms. O'Neill, I just want to follow-up on it's really something Mr. Subin said
26 and thought you would have this information. Do you have the, a current, pretty final
27 enrollment figures and tell us how they compare to last year?

28
29 Pat O'Neill,
30 Well, the final figures are done September 30th. That's the magic date and the
31 enrollment, from what I hear unofficially, which, September 30th is the absolute day is
32 pretty, relatively flat. We've pretty much stabilized our enrollments.

33
34 Councilmember FLOREEN,
35 So, you don't see much of an increase at this point?

36
37 Pat O'Neill,
38 Not dramatic increases, not dramatic growth over the next couple of years. It will be,
39 and, you know, if Staff is sitting behind me and cringing then I'm wrong but from what I
40 understand, we have, our experience is leveling off.

41
42 Councilmember FLOREEN,
43 Right. So your comments are primarily based on the concerns associated with the
44 anticipated costs of construction?



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1 Pat O'Neill,
2 Absolutely. And you know, when the Staff presented in the spring a pretty detailed
3 analysis on construction costs, petroleum-based products were one of the issues. I
4 understand right now is the fallout from Katrina will be lumber which will be a problem.
5 But all petroleum, I mean even concrete has petroleum bases and those costs prior to
6 Katrina, were presented in a very detailed analysis to the Council this past spring and it
7 was presented to the Board of Education. Mr. Subin's comments about the portables,
8 you know, we are sitting with over 700 portables currently, and the comments in the
9 testimony about our obligation and our desire, [inaudible] and all-day kindergarten will
10 exacerbate that issue as well, but we have over 700 portables right now. But concrete,
11 anything with petroleum bases is of huge concern. It was a concern in the spring and it's
12 even more troubling now, given what has occurred. But lumber costs will be a problem,
13 too.

14
15 Councilmember FLOREEN,
16 Is steel still at the levels where it was previously?

17
18 Pat O'Neill,
19 I'd have to ask Mr. Haines
20 Mr. Haines,
21 [inaudible]

22
23 Councilmember FLOREEN,
24 Not as much as we'd like it to. Okay. Thanks.

25
26 Council President PEREZ,
27 Mr. Subin.

28
29 Councilmember SUBIN,
30 Thank you. Following on to Mr. Silverman and Ms. Floreen, but the issue, Dick, is
31 you're, today, today, no impacts yet felt from Katrina, possibly from Rita. Your costs are
32 up 20% from last year.

33
34 Mr. Haines,
35 Hasn't changed much [inaudible].

36
37 Council President PEREZ,
38 Mr. Haines, why did you have a seat up here? We always enjoy your company and if
39 you could identify yourself for the closed captioning.

40
41 Councilmember SUBIN,
42 I wish you hadn't used that word "always".

43
44 Mr. Haines,



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1 It has not changed much since the spring when reported that the costs we were
2 experiencing was 20% over what it was the previous year. Now we haven't seen the
3 effects from Katrina yet, but you're right, at some point in time there's going to be some
4 fallout from that, and prices will probably go up even further.

5
6 Councilmember SUBIN,

7 I think, Glenn, then given that we're going to need some scenarios. I think that
8 construction price increases are going to be far more important than inflationary
9 increases and scenarios that show for every, and I'll say 5% up to 40% starting with Mr.
10 Haines' 20, how much less we're going to get for each 5% increase? Now I understand
11 the issue of need versus affordable, but at the same point, if there are things that are
12 going to impact what we can't do, then I think we need to understand that also as we get
13 into this process, because there are a number of policies that are going to be impacted.
14 And if the school system at the end of the day is about half of the capital budget, I need
15 to know that for the Ed Committee.

16
17 Deputy Staff Director Glenn Orlin

18 The thing to remember is that remember in February, you can change the guidelines the
19 first two years up by 10% from what you do now.

20
21 Councilmember SUBIN,

22 Well, we always hear that, Glenn, but you know, once a process starts, it takes on its
23 own life. Once the number is out there it takes on its own life. And so if we say 100, you
24 now know that the range is 100 to 110. And so whatever you do now, does impact what
25 we do in February because of that.

26
27 Deputy Staff Director Glenn Orlin That's my point. When the point is, if you think it's
28 going to go up as much as 20%, if you raised it by 10% now you have the flexibility of
29 going 20% in February, if it in fact it continues to prove out. It's just a point. But we'll
30 [inaudible] scenarios you asked for.

31
32 Councilmember SUBIN,

33 But there's also another point which says that given all the unknowns, we need to play a
34 silly game with this, which is okay. Oil, Katrina, Rita, I'd better set it not at 100, but at
35 200, because it will be easier to come down than it will be to go up once we know what
36 the impacts are. Silly game.

37
38 Council President PEREZ,

39 Okay. That concludes this hearing but it certainly does not conclude this discussion.
40 Let's turn to Agenda Item Number 12. This is a public hearing on Bill 25-05, Consumer
41 Protection Office Powers and Duties, which would create the Office of Consumer
42 Protection as a principal office in the Executive branch of County government, would
43 transfer certain duties and change certain references from the Department of Housing
44 and Community Affairs to the Office of Consumer Protection and generally amend the
45 law relating to the administration of housing, consumer protection and related programs.



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1 A Planning, Housing and Economic Development worksession is tentatively scheduled
2 for September 29th at 3:30. Persons wishing to submit additional testimony for the
3 Council's consideration should do so by Friday, September 23rd. Before beginning your
4 presentation please state your name clearly for the record. We have five witnesses who
5 have already come to the table. Wonderful. So we will begin with Mr. Beach
6 representing the County Executive, and I meant to thank you this morning, Joe, for all of
7 your work in the Katrina efforts. You have been very, very responsive.

8
9 Joseph Beach,

10 You're welcome. Good afternoon. For the record I'm Joseph Beach, Assistant Chief
11 Administrative Officer, and I'm here on behalf of County Executive, Douglas M. Duncan,
12 to testify in support of Council Bill 25-05, Consumer Protection. As you are aware,
13 Montgomery County is a recognized leader among local governments nationwide in our
14 efforts at consumer protection. Since the consolidation of our consumer protection
15 programs with the former Department of Housing and Community Development, we
16 have made significant improvements in integrating our consumer protection efforts with
17 our housing programs including rental housing licensing, staffing the Commission on
18 Common Ownership Communities, licensing home builders, responding to complaints
19 regarding home improvement contractors, information and complaints on predatory
20 home mortgage lending, financial counseling relating strongly to financial ability to rent
21 or purchase a home, reviewing condominium association documents. However, the
22 proposed legislation will provide greater prominence to the County's efforts at consumer
23 protection and increase the office's ability to promote its programs in the community. If
24 the subject legislation is approved, there will be ongoing need for very close
25 coordination between DHCA and consumer protection on these matters. In this regard,
26 we recommend that the responsibility for rental licensing and review of condominium
27 conversion documents under Chapter 11A of the County Code remain with the
28 Department of Housing and Community Affairs and administration of the Commission
29 on common ownership communities be a responsibility of the Office of Consumer
30 Protection. It is important that with the establishment of the Office of Consumer
31 Protection that it be properly resourced and the transfer of these functions from the
32 Department of Housing and Community Affairs not negatively impact that Department's
33 ability to carry out its responsibilities. The fiscal impact prepared by OMB with the
34 Department of Housing and Community Affairs includes the resources we believe are
35 necessary to appropriately establish the Office of Consumer Protection, given the
36 challenges we will face in crafting the FY 07 operating budget we will work with the
37 Council to accomplish this within existing resources. We look forward to working with
38 the Council and its deliberations on this legislation. Thank you.

39
40 Council President PEREZ,

41 Thank you. Joe. Bob, good to see you.

42
43 Robert Middleton,

44 Good afternoon, Mr. President, and Mr. Vice President, and other members of the
45 County Council. I'm Robert R. Middleton, a resident of Cameron Hill in Silver Spring. I

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for its form or content. Please note that errors and/or omissions may have occurred.**



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1 thank you for this opportunity to testify as a homeowner in favor of making the Division
2 of Consumer Affairs a separate, independent and more powerful agency, that is of the
3 Office of Consumer Protection. I will highlight a personal plight which my wife and I have
4 suffered for almost five years. I hope that what I'll talk about this afternoon, no one else
5 in Montgomery County will ever have to endure. With the stronger Office of Consumer
6 Affairs, Office of Consumer Protection, we believe more assistance could be rendered
7 in cases such as ours and be brought to resolution much more expeditiously. As we sit
8 here today, my new executive townhome, delivered in 2000 by the developer,
9 Eakin/Youngtob Associates of Arlington Virginia, EYA, as it is known now, is being
10 gutted in preparation for a total electrical rewiring. The home has both serious electrical
11 problems and electrical code violations among numerous other problems. Since 2002,
12 my wife and I have sought assistance from the Division of Consumer Affairs to help us
13 get EYA to address the warranty problems and electrical code violations. It has been a
14 long and arduous process to try to get EYA to live up to its responsibilities. In fact, they
15 never did. In the last month, we finally made it through the incredible warranty maze
16 with the EYA's warranty insurer paying for the gutting and rewiring of our home. The
17 Division of Consumer Affairs has helped us greatly. Although they could not order a
18 reinspection of our home in 2002, they advised us to bring in an independent electrician.
19 The electrician identified not only the warranty problem, but found our house contained
20 numerous violations of the Montgomery County electrical codes. Based on the
21 electrician's report, Consumer Affairs ordered EYA to correct the electrical code
22 violations in 2002. EYA procrastinated until Consumer Affairs set a deadline for them to
23 make corrections. EYA then sent an electrician to supposedly correct all of the electrical
24 code violations. Subsequently they falsely stated in writing to Consumer Affairs that they
25 had corrected the code violations as well as the warranty problems, and succeeded in
26 closing our case with Consumer Affairs. Our problems, meanwhile, continued and our
27 home underwent numerous repairs and tests. Consistent with our sales contract for
28 dispute resolution, we brought and won an arbitration action against our award-winning
29 builder in November, 2002. Our issue was to have been resolved by January of 2003.
30 The builder simply ignored us and the rule book of its own trade arbitration, and
31 continued to build in our County with impunity. Earlier this year we succeeded in having
32 Consumer Affairs reopen our case after providing proof that we still have electrical code
33 violations which are not covered by the warranty insurer, including some that EYA told
34 the County they had previously corrected. Consumer Affairs once again urged the
35 builder to correct the code violations and advised us to seek legal assistance.
36 Everything converged around that time as the electrical experts concluded that gutting
37 and rewiring was the only solution. Members of the Council, I would like to invite each of
38 you on a road trip to downtown Silver Spring. I'll be happy to show our marvelous
39 redevelopment area, the site of our future, and hopefully fully funded civic center and
40 veteran's plaza, Park and Planning, hard at work reinventing itself, and my home in the
41 wonderful community of Cameron Hill being stripped bare to the studs for rewiring. The
42 gutting of the house, which began last week, is still underway today. Needless to say,
43 we're devastated that the home we purchased only five short years ago was so
44 seriously flawed. As the Council moves to restore the public trust as it relates to growth
45 and development in this County, I hope it will keep in mind what I've stated here this



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1 afternoon as reason why the Division of Consumer Affairs should become a separate,
2 stronger and independent agency Office of Consumer Protection. I dare to say that the
3 developer/builder controversy, talked about in the media over the past few months goes
4 beyond height and set-back restrictions to questions, critical matters of health and
5 safety. Hopefully in 2006, we will finally be able to feel safe in our own home. The
6 legislation to bolster the authority, autonomy and prestige of the Consumer Affairs office
7 is timely and greatly needed. Consumers need a strong advocate to balance the scales
8 when unscrupulous businesses fail to deliver. Consumer Affairs and forces for the
9 common good should be elevated to a prominent level in the County. Indeed, the
10 Consumer Affairs tigers should be given teeth, not just dentures that can be removed
11 when it's convenient. Thank you.

12
13 Council President PEREZ,
14 Thank you for your time, Bob. Steve?

15
16 Stephen Gurwitz,
17 Good afternoon. I'm [inaudible]. My name is Steven I appreciate the opportunity to
18 appear before the County Council in support of Bill 25-05. The creation of an Office of
19 Consumer Protection as a principal office in the Executive Branch could not come at a
20 more critical juncture. I'm a County resident for 20 years [inaudible] my testimony is
21 informed by my five years as [inaudible] Advisory Committee on Consumer Affairs
22 [inaudible]. In addition, my professional background [inaudible] testimony. I'm a senior
23 trial attorney Federal Trade Commission a variety of consumer products including
24 telemarketing, work at home, pyramid, [inaudible]. I've also designed [inaudible]. As you
25 may know, [inaudible] my training techniques [inaudible] managed by [inaudible]
26 employee, [inaudible]. By all accounts the office is one that all County residents can be
27 proud of and has won numerous awards. One of the most prominent and notable
28 awards was the prestigious Esther Peterson Distinguished Consumer Services award
29 from the Consumer Federation of America [inaudible]. This all changed in 1996 when
30 the office became [inaudible] the Department of Housing and Human Affairs and overall
31 management was transferred the [inaudible]. Since 2002, the Division of Consumer
32 Affairs has seen its budget cut every year [inaudible] staff positions including [inaudible].
33 I can only assume that the Director of DHCA bears some responsibility for those
34 actions. Although not exactly analogous I would point out that FEMA was once an
35 independent agency before it became part of the Department of Homeland Security.
36 Critics have charged that this resulted in a lack of resources in focus and an ineffective
37 management as the disaster planning was not a priority of Homeland Security. News
38 stories also indicate that morale at FEMA sank as it became absorbed in DHS. It's time
39 to restore the Division of Consumer Affairs to the prominent place it belongs in County
40 government. As Councilmember Silverman recently observed, we have more diversity,
41 more poverty, and more urbanization in the County today. The population's increased
42 dramatically since 1996. We have a much more needy population. This includes
43 immigrants whose native language is not English and an aging population has it's own
44 consumer protection issues. These constituents deserve a principal office that's devoted
45 solely to their needs with an administrator who has just one priority: To intervene on



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1 their behalf, be aggressively enforcing consumer protection laws or providing consumer
2 education and outreach to this dispirit population so they can protect themselves.
3 Moreover, the restoration of Division of Consumer Affairs to a principal office will
4 improve the morale in the Division. The dedicated employees who have worked so
5 diligently under increasingly difficult conditions will be rewarded by the recognition that
6 their work is important and valued by the County Council. They will report to a merit
7 system manager who oversees one function and it was unaffected by political
8 considerations. That manager can seek to ensure adequate funding and staffing levels
9 to the office, in contrast to the present situation where the Director of DHCA has a large
10 department and must make resource decisions for a large office with many functions. I
11 believe that the current Director has tried to balance budget and personnel issues but
12 that the consumer function has not been a priority for her. In addition to the creation of
13 the Office of Consumer Protection, the Council should amend Chapter 11 of the County
14 Code to include broader powers to the new office. I understand that the proposed
15 divisions have been drafted by Staff and the Division of Consumer Affairs and have
16 been submitted to the Director of DHCA. These revisions include increased powers to
17 bring administrative enforcement actions and increased penalties for violations of the
18 consumer protection laws. In addition to increased powers, the new office needs to be
19 adequately funded so it can enforce the laws and engage in community education and
20 issues. Please give the new Office of Consumer Protection the tools it needs to be an
21 effective and productive office. In closing, I urge the Council to seize the moment, vote
22 in favor of Bill 25-05 and take the first steps to increase consumer protection for County
23 residents. Show your constituents you want to protect them from unscrupulous
24 merchants and from fraud. Show them you will intervene on their behalf if necessary.
25 Help them educate and protect themselves. Thank you.

26
27 Council President PEREZ,
28 Thank you. Ms. Rappaport.

29
30 Sydell Rappaport,

31 My name is Sydell Rappaport and I appreciate the opportunity to appear before you in
32 support of Bill 25-05. I believe the creation of an Office of Consumer Protection as a
33 principal office in the Executive Branch of County government will be of great value to
34 the citizens of Montgomery County. I'm speaking as an individual but I am an informed
35 citizen. I have been a member of the Advisory Committee on Consumer Affairs for five
36 years and served as co-chair for the past three years. Before I retired I was a Deputy
37 Attorney General in the state of New Jersey assigned to New Jersey Division of
38 Consumer Affairs. I see a pattern there. Most important, I've been a volunteer in the
39 Montgomery County Division of Consumer Affairs for nearly five years and have had the
40 honor to assist the hard working, dedicated employees of the Division. I've seen
41 firsthand the assistance the Division has provided to the citizens of the County. I've
42 seen the benefits so many consumers have accrued because of the knowledge, caring,
43 and skills of the employees of the Division. I believe their work will best be served by the
44 organization being directly responsible to the County Executive and being an
45 independent organization totally devoted to consumer protection and to consumer



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1 education. An organization which will be able to seek adequate funding, set its own
2 priorities and better serve the public. To plug one of my own interests, hopefully the
3 independent office will be able to place greater emphasis on financial literacy in the
4 schools and community. A well-informed community is a protected community. An
5 independent Office of Consumer Protection will be better able to inform and protect
6 Montgomery County citizens. Thank you.

7
8 Council President PEREZ,
9 Last but never least, our good friend, Marvin Weinman.

10
11 Marvin Weinman,
12 I'm speaking today as an individual, an individual who has been involved as a volunteer
13 for 14 years at the Office of Consumer Affairs. I work every day and I come in, almost
14 every day when I come and leave I feel I've accomplished something. It's very
15 rewarding not only to myself but to the other 19 volunteers, there are 20 volunteers.
16 Fourteen of the 20 volunteers have been there over 10 years, which just shows that
17 they are getting interest and value out of what they're doing, saving the County money
18 by providing those volunteer services and working very hard with the 10 investigators
19 who are doing outstanding work. Right now, they're in the mode of getting warrants on
20 unlicensed contractors. They've just issued 19 warrants in the last month or so. The
21 criminal warrants, one particular case, there was an 80-year-old woman who was
22 reimbursed \$48,000 when criminal charges were brought against the unlicensed
23 contractor. There are other pending issues of unlicensed contractors with warrants
24 pending who will volunteer to give back up to \$70,000 to keep from going to jail. So
25 they're reaching new heights in reaching out and getting benefits for the individuals.
26 Once again, we look to that as being a procedure that's going to be improving all the
27 time. There are new policies that seem to be coming in that only make the office more
28 effective. And speaking, I believe, for all the volunteers, we're all pleased to be working
29 there and will continue to work over the long period of time. Some of these volunteers
30 have up to 19 years. We have an 89-year-old man who has been working there 19
31 years. So something good must be happening there and we hope it can continue.
32 Thank you.

33
34 Council President PEREZ,
35 I didn't know that about you, Marvin.

36
37 Marvin Weinman,
38 A lot of things you don't know about me.

39
40 Council President PEREZ,
41 Some of them we can discuss publicly and some that we can't.

42
43 Marvin Weinman,
44 Not everything.



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1 Council President PEREZ,

2 I don't know where you get all the time to do all the volunteer work that you do, Marvin,
3 but we are a better County as a result of it. Thank you to everybody for your testimony.
4 It was certainly extremely informative. There's at least one light on. Mr. Leventhal.

5
6 Councilmember LEVENTHAL,

7 Thank you to all the witnesses. Very helpful and persuasive testimony. Mr. Middleton,
8 do you know whether any other homeowners at Cameron Hill have experienced similar
9 problems?

10
11 Robert Middleton,

12 Yes. The Department of, and the reason I said that is there is, of course, as you can
13 imagine, litigation involved in this case and I'm thinking about what it is I need to say.

14
15 Councilmember LEVENTHAL,
16 But your situation is not unique?

17
18 Robert Middleton,

19 My situation is extreme. I think the best assessment is I got the lemon of the lot. There
20 have been other problems identified by neighbors that the Consumer Affairs have
21 helped us with. We had problems with plinth blocks on the front of houses all around the
22 neighborhood, which just look really shoddy. Consumer Affairs listened to what it is we
23 had to say. As a matter of fact, my wife even sent in via the mail some of the rotten
24 wood that had accumulated in such a short period of time. And Consumer Affairs got in
25 contact with our award-winning builder and made the builder come out at least assess
26 the situation and they, out of the, quote, goodness of their hearts, unquote, agreed to
27 replace the plinth blocks.

28
29 Councilmember LEVENTHAL,

30 Your testimony comes, it could not be more timely. Not only with respect to this Bill but
31 with respect to a variety of other things before the Council right now. How did you end
32 up going to Consumer Affairs rather than, or did you also go to other agencies in County
33 government such as Permitting Services of the Board of Electrical Examiners?

34
35 Robert Middleton,

36 Well, we called, my wife is really the expert on this, but let me see if I can recall what
37 she did in this instance. I believe she or I, we're talking about three or four years ago,
38 contacted Permitting Services to ask if we could have the house inspected. They, of
39 course, told us they were too busy and I can certainly understand that. They suggested
40 that I contact the Office of Consume Affairs and go there.

41
42 Councilmember LEVENTHAL,

43 What about the Board of Electrical Examiners? Do you ever consider them?

44
45 Robert Middleton,

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1 No.

2
3 Councilmember LEVENTHAL,

4 Okay. I'm sorry you've had this terrible experience. I hope it works out for the best and
5 promptly.

6
7 Robert Middleton,

8 I'm hoping it does too, sir. I don't move very often, and I've had to move twice in a 5-
9 year period of time from a home that I never expected I'd have to move from unless it
10 were an extreme case of fire or hurricane as they did in New Orleans.

11
12 Councilmember LEVENTHAL,

13 Thank you for all for testimony, very helpful.

14
15 Council President PEREZ,

16 Quick question for the, I have the bios of all the members of the Advisory Committee
17 and it's an impressive group of people not to mention impressive group of volunteers.
18 How important is visibility in the effective operation of an Office of Consumer Affairs?

19
20 Sydell Rappaport

21 We were just talking before this that unfortunately many of the people in the County do
22 not know that there is a Division of Consumer Affairs and if you ever go on the Web site,
23 the County Web site, if you click on Departments, you know, it's under Housing, you
24 would have extreme difficulty in finding Consumer Affairs. If you click on Services and
25 you go to See Consumer Affairs then you would find it. But it's very important because
26 many times people have complaints, they don't know where to turn to. They don't know
27 that there's somebody here in the County that's willing to help them and able to help
28 them.

29
30 Stephen Gurwitz,

31 Councilmember Perez, I took an informal poll at my job at the Federal Trade
32 Commission of Montgomery County residents. And I said, Are you aware that there is a
33 Division of Consumer Affairs? And believe it or not there were a number of people that
34 did not know that the Division of Consumer Affairs existed in Montgomery County. I also
35 asked them, would you be surprised to know that's not a separate office? And they were
36 shocked to find out that not only was it not a separate office but that it was within the
37 Department of Housing. Obviously visibility is very important. The visibility is not there
38 now. And I think that the new office, assuming that the Council adopts and passes the
39 Bill, needs to be able to push its services to those who can't find help other places. In
40 this world, not everybody asks for help and particularly some of the people we're dealing
41 with, the aging and the immigrants do not always ask for help. The services of the
42 Consumer Protection Office need to be pushed on them if need be.

43
44 Council President PEREZ,



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1 Thank you. Thank you all for your testimony and thank you, Mr. Beach. Thank you for
2 all your colleagues who came today. Okay. We're on to Agenda Item 13. This is a public
3 hearing on Bill 23-05, Domestic Violence Coordinating Council, which would established
4 a Domestic Violence Coordinating Council with certain requirements and generally
5 amend the law governing coordination of county, state, federal and community efforts
6 relating to combating domestic violence. A Public Safety Committee worksession is
7 tentatively set for October 10th at 9:30 a.m. Persons wishing to submit additional
8 information for the Council's consideration should do so by close of business September
9 30th. We invite Debra Horan from the Commission for Women, Ryan Spiegel from the
10 Victim Services Advisory Board, Barbara Zakheim and Marilyn Moskowitz from the
11 Jewish Coalition Against Domestic Abuse, Jeredine Williams, MRCS, and Dorothy Fait.
12 Ms. Horan, when you are ready to go, you may begin.

13
14 Deborah Horan,

15 Thank you. Mr. President and members of the County Council, my name is Deborah
16 Horan and as President of the Montgomery County Commission for Women it's my
17 honor to appear before you today in support of Bill Number 23-05. This legislation would
18 establish a 15-member Domestic Violence Coordinating Council to advise the County
19 Council and the County Executive on Domestic Violence policies, programs and issues.
20 Domestic Violence is a complex crime that disproportionately affects women. For this
21 reason, the Commission has been actively engaged for many years in efforts to address
22 the issue. I'm actually reminded that it was one of my predecessors at the Commission
23 for Women who initially recommended the establishment of the Task Force in the early
24 '80s. Since its creation, the Task Force has brought together representatives of key
25 agencies and organizations forging partnerships to develop strategies for more
26 effectively responding to domestic violence. Law enforcement, social services, the
27 judiciary and legal profession have joined with religious leaders, advocacy groups and
28 individuals to form a collaborative response effort. The Task Force has been the
29 catalyst for some significant accomplishments including the creation of the Betty Ann
30 Krahne Center that opened in April of 2000. Unfortunately, domestic violence is a
31 problem that has not abated. Instances of domestic violence occur daily in Montgomery
32 County, more than 1500 incidents were reported last year. And again, women were
33 disproportionately the victims. During FY '04, Montgomery County saw 11 domestic
34 violence-related homicides, and recent County crime data reveals that 80% of all
35 women murdered in our County died at the hands of someone that they had a
36 relationship with. We still need and will continue to need a mechanism for coordinated
37 response. The Centers for Disease Control and Prevention, the Department of Justice,
38 the American Medical Association, and many other prestigious agencies and
39 organizations all advance national guidelines that promote a coordinated community
40 response as best practice in recognition of the complex nature of this crime.
41 Establishing the Domestic Violence Coordinating Council makes a great deal of sense.
42 This Bill will build upon the prior work of the Task Force on Domestic Violence as well
43 as the work of many other committed individuals and organizations by formalizing a
44 coordinated body to improve the County's response to domestic violence. The
45 Montgomery County Commission for Women urges members of the County Council to



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1 enact this legislation so that we can help ensure an effective community-wide response
2 to one of our most critical public safety issues. Thank you.

3
4 Council President PEREZ,
5 Thank you.

6
7 Ryan Spiegel,
8 Good afternoon. My name is Ryan Spiegel and I am the Chair of the Victims Services
9 Advisory Board. I also want to recognize in the audience former VSAD Chair, David
10 Bacharach and Gene Morris, Director of the Abused Persons Program. While the
11 mandate of our Board is to advocate for victims of all types of crime, historically this has
12 included a strong focus on victims of domestic violence. Working together with the Staff
13 of both the Victim Assistance and Sexual Assault Program, and the Abused Person's
14 Program as well as other parts of the government whose work affects the lives of
15 victims and their families. Last year we voted unanimously to endorse the re-
16 implementation of the County Executive's Domestic Violence Task Force, a valuable
17 tool whose term of operation had expired. This year, we consider the proposal to create
18 a Domestic Violence Coordinating Council to be a positive step to re-establish the
19 earlier Task Force with a new and improved organizational structure. As the heir to the
20 DV Task Force, the new Coordinating Council has, at least in principle, the unanimous
21 support of our Board. Some issues which the Domestic Violence Coordinating Council
22 should address include the effort to ensure that DV victims are notified when their
23 offenders are released from custody. This issue has seen significant progress since the
24 highly publicized DV death last Labor Day, but it needs to be finalized. Additionally, the
25 County needs to implement an adult fatality review system similar to the one in effect for
26 child fatalities, so we can identify the lapses in the system that allow domestic violence
27 deaths to occur and thereby prevent future deaths. As a small note of caution, we ask
28 the County Council to consider the best agency from which to provide Staff support for
29 the Coordinating Council. Ultimately we are confident that County Staff will do a
30 commendable job providing support to the Council no matter what agency those Staff
31 members comes from but the County Council might want to consider which type of
32 agency is best equipped and most knowledgeable to take a comprehensive view of the
33 needs of and services to domestic violence victims, and whether it makes more sense
34 to have the Coordinating Council Staff support come from such an agency or perhaps
35 be independently established. Crimes of domestic violence often terrorize the injured
36 party into silence so that society often has to be the advocate for the victim. You can
37 and you do make a difference by standing up against domestic violence and the
38 establishment of a Domestic Violence Coordinating Council is an important step in that
39 effort. Thank you for the opportunity to address the County Council and we look forward
40 to working together on behalf of victims of domestic violence and other crimes in
41 Montgomery County.

42
43 Council President PEREZ,
44 Thank you. Ms. Zakheim and Ms. Moskowitz?



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1 Marilyn Moskowitz,

2 My name is Marilyn Moskowitz, I'm the Executive Director of the Jewish Coalition
3 Against Domestic Abuse. Unfortunately, Barbara Zakheim, our President, is unable to
4 be here this morning. I want to thank you for and express my appreciation for the
5 opportunity to speak in favor of Bill 23-05 creating a Domestic Violence Coordinating
6 Council. This Coordinating Council will pick up where the Task Force against Domestic
7 Violence left off. There has been a void in the community since the Task Force was
8 disbanded in 2003 by the Department of Health and Human Services. This Task Force
9 was historically the first organization in the state that brought together all public and
10 private organizations to formulate a coordinated response to domestic abuse in our
11 County. The Task Force involved the religious community in the discussion of domestic
12 violence and the Coordinating Council will be able to perform this function as well. With
13 this Council, various religious faiths can work together to educate religious leaders
14 regarding domestic violence, and with this Council provide a forum for the exchange of
15 ideas on how to accomplish this. Barbara Zakheim, President of the Jewish Coalition
16 Against Domestic Abuse, attended meetings of the Task Force when planning to
17 organize the Jewish Coalition Against Domestic Abuse and found that the Task Force
18 was validating and very useful. After it's formation, JCADA attended meetings which
19 were very helpful in learning about community resources that were available, how to
20 access these resources and the response to domestic violence in the County. There is
21 no other place for this exchange. The typical victim JCADA deals with would probably
22 not access traditional methods of reporting domestic abuse. These victims really contact
23 the Police and are fearful of going through the legal system. Due to social pressure they
24 often deny the abuse or will seek help from a friend or family member. The information
25 shared by JCADA in the Coordinating Council will help both the County and JCADA
26 deliver the needed services to these victims. JCADA, founded in 1999, in response to a
27 pressing need in the local Jewish community, provides a safety net for those caught in
28 abusive or violent relationships. It is alive with a host of community organizations whose
29 shared mission is to strengthen Jewish families and break the cycle of violence. We are
30 also speaking on behalf of the Jewish Community Relations Council and all of its 200
31 plus members in support of Domestic Violence Coordinating Council legislation. Thank
32 you.

33
34 Council President PEREZ,

35 Thank you. Good afternoon, Jeredine, good to see you.

36
37 Jeredine Williams,

38 Thank you very much. President Perez and Councilmembers, I am Jeredine Williams,
39 Director of the Migrant and Refugee Cultural Support, an organization that supports
40 battered immigrant women in Montgomery County. I am also a member of the Betty Ann
41 Krahnke Advisory Committee. I want to thank you for this opportunity to testify in favor
42 of Bill Number 23-05 which will create a County Domestic Violence Collaborative
43 Council, which I believe it was introduced by Councilmember Silverman and Subin. I,
44 among others, applaud them. I also want to take this opportunity to thank Dorothy Fetch
45 and members of the County Executive Domestic Violence Task Force for the valuable



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1 work they did while that Committee existed and fulfilled many needs of the domestic
2 violence community. In the light of our visibly changing demographic landscape in
3 Montgomery County, the domestic violence community is confronted with new
4 challenges of language, culture and immigration laws protecting victims of domestic
5 violence. Furthermore, victims of domestic violence face a range of legal challenges in
6 the criminal justice system, family courts, as well as immigration law. All of these are
7 compounded by issues of trauma so often connected with their abuse, deep concern of
8 their economic survivability, custody of their children, cultural norms that conflicts with
9 American values and laws. In addition, many of them do not have legal status and they
10 are consumed with fear of deportation because they are unauthorized to remain in this
11 country unless they apply for appropriate immigration benefits under the Violence
12 Against Women Act. Many victims do not know about these benefits and they need to
13 know. This is the mission of our organization, my organization, MRCS. We firmly believe
14 that a collaborative Council can place several rules for victims as well as providers
15 among which is a repository for information and best practices on how to meet standard
16 service [inaudible] abuse and access opportunities for self development and self
17 sufficiently of victims and their children. MRCS is poised to contribute to deliberations of
18 the future collaborative Council as and when necessary. The Montgomery County
19 Mental Health Association is currently doing a very valuable survey on how to eliminate
20 gaps rooted in cultural misunderstanding and cultural conflict in serving victims of abuse
21 in the hope of building tenable standards to help both our service providers and victims
22 in findings lasting solutions. Another role of the collaborative Council could be to monitor
23 due diligence on the part of service providers and set standards on appropriate training
24 in all the areas that effect our new diversity, especially in the areas of cultural and
25 linguistic skills or ability to use resources available in these areas. Once I had a provider
26 who was looking for an Albanian interpreter and could not find a volunteer interpreter,
27 and could not find an interpreter agency to provide the service. I asked her if a client
28 could speak Italian or any of the Slavic languages spoken in Yugoslavia, as Albania is
29 geographically approximate to both of these countries and they share common
30 knowledge of their languages. She agreed with me that it was a good alternative to
31 explore. Members of the collaborative Council should be [and been] familiar with such
32 types of options to meet the challenges of an increasingly diverse community and there
33 is no better time for such a Council to be born then now. Thank you.

34
35 Council President PEREZ,
36 Thank you. Ms. Fait.

37
38 Dorothy Fait,
39 Thank you. I'm Dorothy Fait and I don't know what I can add to these wonderful
40 speakers. I'm here basically to give a little historical perspective, but I don't feel that old.
41 I'm a lawyer practicing in the County. I do family law and I've taken an interest in
42 domestic violence. I've been active in that area for a number of years and I remember
43 when the Task Force Against Domestic Violence started in 1982, Judge Rosalyn Bell,
44 who was a leader in the legal community here in Montgomery County, felt that a Task
45 Force needed to be established to implement the new civil order of protection language



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1 law that had been passed and the language that needed to be interpreted. And the
2 thought at the time was it was to be a short duration Task Force, maybe a year or two. It
3 would implement the law, domestic violence would be eradicated and that that would be
4 the end of the problem, and obviously we were very naive and the more we got into it
5 and worked with the issue, the more we found that it is a common problem, that it was
6 hidden behind closed doors until the '80s when it became all right to talk about it. That
7 the agencies in the County were not coordinated with regard to the response to
8 domestic violence and so those early years we did a lot of educating of the public and
9 bringing agencies together. Judge Bell retired in the mid '90s and I took over as the
10 Chair of the Task Force and essentially we continued where she left off and we tried to
11 coordinate all of the interested domestic violence agencies, not only in the County, the
12 ones that dealt with domestic violence victims, but citizens groups, and we added
13 groups such as Jeredine's when they came about and religious organizations dealing
14 with domestic violence in their communities, and the Task Force really was a forum for
15 all of these organizations and agencies to exchange ideas. One of the things we did,
16 some of us went to Quincy, Massachusetts in the '90s, looked at the program they had
17 there which was at the time, kind of in the forefront of coordination. We took some ideas
18 from Quincy, came back to Montgomery County and had memorandums of
19 understanding executed by all of the agencies dealing with domestic violence victims so
20 that there would be some communication that could be accessed. That kind of, I think,
21 went by when the Task Force was disbanded in 2003. While there are certainly
22 agencies in the County and agencies in the public arena working on domestic violence,
23 I'm not sure that all of the coordination that can and should be accomplished is being
24 accomplished. And so we're thankful, or I'm thankful to Councilmember Silverman and
25 Subin for introducing this piece of legislation which would essentially make a permanent
26 Coordinating Council, an agency such as this that needs to function as a coordinator for
27 all of the parties interested in eradicating domestic violence. Thank you.

28
29 Council President PEREZ,

30 Thank you to all of you for your testimony. Ms. Horan, do you, the next report on the
31 status of women that you have prepared which has been wonderful, do you know when
32 that is due out?

33
34 Deborah Horan,

35 We're launching that project this year with your support. Thank you. And we're
36 supposed to make a report in two years.

37
38 Council President PEREZ,

39 Two years. And will there be a component on this issue in the report?

40
41 Deborah Horan,

42 I would expect that that would be the case.

43
44 Council President PEREZ,

45 Okay. Great. Mr. Leventhal?



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Councilmember LEVENTHAL,

Thanks again to all the witnesses, very helpful and illustrative testimony. Jeredine, I'm trying to understand the anecdote in the last paragraph of your testimony, you say that a service provider was looking for an Albanian interpreter. What kind of service provider was this? Was this a non-profit or a County agency?

Jeredine Williams,

She was a mental health service provider.

Councilmember LEVENTHAL,

In the non-profit community?

Jeredine Williams,

No, in the government. In the victim services community.

Councilmember LEVENTHAL,

Okay. We had a briefing not too many months ago from Bruce Romer where he talked about limited English proficiency, and every County agency including the County Council, is supposed to have access to the Language Line, which is a private company that you pay per transaction and no agency should be, no County agency should be in the position of, as you say in the testimony, could not find a volunteer interpreter and could not pay an interpreter agency. So if you could follow-up with me later, I'd like to know more specifics because certainly, if anyone in the Health and Human Services Department is under the impression that they don't have access to language services, I'd really like to know the details of that and find out more. I appreciate your raising that here because whether it's Albanian or Croatian, or Italian or Macedonian, whatever the appropriate language is, we were told that every County agency including the County Council has access to those services. So when you have the chance I know we're going to meet soon anyway, I'd like to know more of the details of that because I'm wondering whether that person was laboring under a misapprehension or whether maybe we were told something that isn't quite accurate about access to language services.

Jeredine Williams,

May I ask a question? Did Mr. Romer talk about less frequently spoken languages? Does the Language Line cover all languages?

Councilmember LEVENTHAL,

I was led to believe that County agencies should have access to just about any language you could ever have heard of anywhere.

Jeredine Williams,

Okay. Well, that's good.

Councilmember LEVENTHAL,



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1 There may be some exceptions, maybe Albanian is the rare exception, but what your
2 testimony specifically says is that, and again, if I'm understanding you correctly you're
3 talking about a County employee, mental health provider, so I'm surmising that would be
4 in the Department of Health and Human Services who said could not find a volunteer
5 and could not pay an interpreter agency. No one in the Department of Health and
6 Human Services should be saying that. That takes me quite by surprise so I'd like some
7 more information about that. Thank you.

8
9 Council President PEREZ,
10 Mr. Silverman.

11
12 Councilmember SILVERMAN,
13 Thank you, Mr. President. I just want to thank all the witnesses for taking time out of
14 your busy schedule and I particularly want to thank Doty Fait for bringing this to our
15 attention in the first place so we can make sure that we get back on track. I forgot who
16 said it, but it is a very complicated issue, it's one of those issues that cuts across so
17 many agencies in County government, outside County government and lest anybody
18 who's watching or thinking about this, that we're well, we're just putting together another
19 Council to advise people, this is not that. This is an actual working organization that is
20 going to make sure that we have a coordinated approach to domestic violence and
21 there is, in fact, no one entity or agency that could house this issue. We appreciate your
22 coming out, appreciate your continued hard work in connection with this issue, and
23 assuming the legislation passes, people will be looking for names to serve on. Thank
24 you very much.

25
26 Council President PEREZ,
27 Mr. Subin.

28
29 Councilmember SUBIN,
30 Thank you all for everything you do in this arena. I think this is an arena, just like gender
31 specific health issues, where everything has been swept under the table or people have
32 tried to sweep things under the table. It's an issue that few people talk about, many of
33 us have had to deal with it in the past. Some may view this as a politically motivated
34 sucking up type thing. Well, let me assure those of you who are out there, if you've ever
35 been exposed to domestic violence, it is quite a bit more than that. I know Doty Fait has
36 dealt with quite a number of women and children who have been exposed to this in the
37 past. Judith Prather and Hanna Sasoon who deal with this multiple times a day, it's
38 something that we need to really step out with and stop hiding and stop whispering
39 behind closed doors about because it's happening everywhere, and anybody who thinks
40 it's not is as foolish as those who think that their teams are not exposed to drugs or
41 anything else. And so the more that we do nothing the more that it is going to affect
42 people and mostly always, not mostly but always, innocent people. Thank you for what
43 you're doing. We appreciate it and more than that I think the victims really do appreciate
44 it.



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1 Council President PEREZ,

2 That concludes that hearing. We will move to Agenda Item Number 14. A public hearing
3 on Expedited Bill 24-05, Department of Economic Development, a non-merit position
4 minority business affairs manager which would designate the position of minority
5 business affairs manager as a non-merit position in DED and generally amend the law
6 governing non-merit positions in DED. PHED Committee worksession is set for
7 September 29th at 3:30. Persons wishing to submit additional testimony should do so
8 by the close of business on September 23rd. There are no witnesses. Moving to
9 Agenda Item Number 15. This is a public hearing on Bill 20-05, Transmission Facility
10 Coordination Amendments which would clarify that telecommunications facilities, radio
11 broadcast towers and television broadcasting towers are subject to the Transmission
12 Facility Coordinating process and generally amend the law regarding
13 telecommunication facility coordination. MFP Committee worksession tentatively set for
14 October 17th at 2:00 p.m. Persons wishing to submit additional testimony for the
15 Council's consideration should do so by close of business October the 3rd. We have
16 two witnesses, Greg Russ and Pamela Bussard. Greg, you're on. Welcome. Do you
17 want to go too? You are talking also? Come on up, then. I'm sorry, I didn't have your
18 name here, but come on up. Do you have your sticker on your name?

19
20 Greg Russ

21 Thank you, Mr. President. The Montgomery County Planning Board reviewed Zoning
22 Ordinance Text Amendment Number 05-10 at its regular meeting on September 15,
23 2005. The Board unanimously recommends that the proposed text amendment not be
24 approved as submitted. Instead the Planning Board recommends that additional
25 analysis be conducted on the portion of the text amendment concerning amateur radio
26 facilities. Specifically, the Board agrees that establishing a separate definition for
27 amateur radio facilities is appropriate since this would help distinguish personal non-
28 commercial radio transmissions from commercial broadcasting radio towers. However,
29 the proposal to permit by right amateur radio facilities up to 100 feet in height in all one
30 family residential zones causes concern. The Planning Board believes that permitting a
31 100-foot tall amateur radio facility in the smaller lot zones would be excessive but feels
32 that this height could be appropriate in the larger lot zones. The Board recommends that
33 a lower height be established for by-right amateur radio facilities in the smaller lot zones
34 and that special exception regulations be established for an amateur radio support
35 structure and antenna height proposed higher than the by-right maximum height. Also,
36 the subject text amendment proposes a support structure for radio and television towers
37 a maximum of 300 feet unless it can be demonstrated that additional height up to 450
38 feet is needed for service colocation of a public safety communication purposes. The
39 Board believes that this proposal is consistent with current practice and notes that any
40 maximum height for a proposed support structure and antenna would be further
41 analyzed and addressed by the County's Tower Committee and through the special
42 exception public hearing process. Thank you, Mr. President.

43
44 Pamela Bussard,



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1 Good afternoon, members of the Council. My name is Pamela Bussard. I'm President of
2 the Damascus Residents for Responsible Tower Siting Incorporated. Each of you has
3 an extended version -- I beg your pardon?

4
5 Unidentified
6 Foul with the acronyms.

7
8 Pamela Bussard,
9 I'll work one in.

10
11 Unidentified
12 We can't pronounce it.

13
14 Pamela Bussard,
15 Each of you has an extended version of my comments and we're an organization of
16 Damascus area residents striving to preserve aesthetic values in the remaining rural
17 and farming areas of our County. I'm here today to urge you to take the special
18 exception use of these towers out of the RDT zone as contemplated by the current draft
19 of the Damascus Master Plan. While the Planning Board's recommendation addresses
20 tower height, our concerns go a little further. These areas are attracting entities that
21 wish to construct very tall towers with high intensity lighting that will turn our rural vistas
22 and skylines into strobe lit industrial zones. The proposed ZTA doesn't sufficiently
23 control both of the areas in which broadcast towers can be built and how high those
24 towers can be. Of particular concern is the RDT zone, which is the embodiment of our
25 agricultural reserve. Damascus is a special place within the County because of the
26 agricultural reserve as reflected in our master plan. It notes that Damascus is key to the
27 County's farmland preservation policies and discourages non-agricultural uses. The
28 master plan sets forth special exception guidelines for rural vista protection. And I'm
29 going to quote from the master plan right now. Quote, land uses that impede these
30 vistas should be discouraged. The Zoning Text Amendment before you today would
31 subvert the master plan before it's even adopted. This can be prevented by simply
32 deleting the SE under RDT in the matrix of land uses for radio and television broadcast
33 towers. Also, we're concerned that the height limits are too liberal and too full of
34 loopholes to be effective as detailed in my written testimony. Our concerns are not
35 hypothetical. In Damascus there is a pending request by a Michigan company to
36 construct an antenna farm of four towers at 411 feet. That's only slightly less than the
37 height of the Washington Monument. These four structures are going to loom over our
38 skyline and schools day and night. If built they're going to destroy the scenic vistas that
39 we treasure in Damascus in our master plan. A concern has been expressed that
40 Council may not take any action that would be at odds with FCC policy. The FCC has
41 not involved itself in local zoning disputes regarding broadcast tower placement. Thus
42 Council need not be concerned as to any possible pre-emption. Action by the FCC
43 should act only to protect, I'm sorry, I messed up here, we shouldn't be concerned about
44 any FCC pre-emption. In sum, ZTA 05-10 has a worthy goal that we all agree on,
45 standards governing broadcast tower siting. It's especially necessary to protect the



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1 County's remaining uncluttered skylines and vistas. Like those in Damascus and
2 Poolsville and Boyds and Darnstown that the Planning Board experts have agreed with
3 us should be protected. I'm almost done. New broadcast towers should be limited in
4 height, prohibited in agriculture reserves and other areas in the County that in its master
5 plans and other ways has sought to preserve rural open space and vistas. We further
6 request that these protections apply to any pending requests as of the ZTA's date of
7 introduction. If these changes can be made, we and those others who want to preserve
8 the quality of life in Montgomery County, will support this legislation very
9 enthusiastically. Thank you.

10
11 Jane Lawton,

12 I'm Jane Lawton, the Cable Communications Administrator for Montgomery County. I'm
13 speaking today on behalf of the County Executive in support of both of the bills. The
14 Zoning Text Amendment 05-10 primarily clarifies the regulatory treatment of radio and
15 television towers, telecommunications facilities and amateur radio facilities. Cliff
16 Royalty, the Associate County Attorney that works with us and I have studied the
17 proposed legislation. We agree that the adjustments will help clarify zoning and process
18 issues with regard to the County's oversight and review process for the siting of radio
19 and television broadcast towers and amateur radio facilities in the County. Our legal
20 counsel advises that in his opinion the ZTA is legally sound though there are some
21 minor issues that merit further consideration before it becomes law, and these minor
22 recommendations, legal recommendations, have been provided to the Council Staff
23 already. With regard to the Bill 20-05 which has to do with process which clarifies that
24 telecommunications radio broadcast towers and television broadcast towers are subject
25 to the Transmission Facilities Coordinating process, we agree with the clarifying
26 changes and have no adjustments to recommend. It appears that the intent is clear but
27 you may want to make certain that the language provides that the amateur radio facility,
28 which is over 100 feet tall and is therefore going through special exception, does first
29 come through the Tower Committee for recommendation. Thank you very much.

30
31 Council President PEREZ,
32 Councilmember Praisner?

33
34 Councilmember PRAISNER,

35 Pam. I very much appreciate your testimony but I just want to put some things in clarity.
36 I don't know what attorney you hired who specializes in FCC law, but the reference to
37 the FCC, our not having to be concerned about possible pre-emption by the FCC is,
38 with all due respect, misplaced assumptions. I personally was involved in the 1997
39 discussions and deliberations about pre-emption, and to assume just because in '97
40 and since then the FCC has not taken any action, would be inappropriate to assume
41 that that means we don't have to worry. Pre-emption issues are prominent at the FCC
42 and on Capitol Hill as it relates to telecommunications issues, and having vetted some
43 of the approaches with folks at the FCC, I think the likelihood that someone can assume
44 that just because they have not pre-empted broadcast towers in the past when we had
45 to work very hard to get them not to take any action, you can't assume that they won't



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1 do so just because they haven't taken an action so far. I really think that is not the best
2 approach to assume just because they didn't do something they won't do something.

3
4 Pam Bussard

5 Ms. Praisner, thank you for bringing that up. We'd be prepared to provide you with some
6 brief tomorrow if that would be all right.

7
8 Councilmember PRAISNER,

9 I'd be more than happy if you could send me whenever you have but I'm just telling you,
10 I was in those meetings with the Staff, some of whom still are at the FCC and have had,
11 that was an even more favorable Commission and at that point who was not more
12 inclined not to pre-empt local government. But to assume that, especially in the amateur
13 radio area or even in the radio television area, that there would not be any pre-emption
14 just because they haven't in the past, I think you're being too hopeful about that subject.

15
16 Jane Lawton,

17 Thank you, Ms. Praisner.

18
19 Council President PEREZ,

20 Mr. Knapp?

21
22 Councilmember KNAPP,

23 I just want to thank the panel and thank Pam for coming down to represent the
24 community's interest and look forward to working with the Committee as we work
25 through these issues in the coming weeks.

26
27 Council President PEREZ,

28 Ms. Floreen?

29
30 Councilmember FLOREEN,

31 Thank you. Jane's comments reminded me of a festering sore I had with respect to the
32 telecommunication facility law. And I'd ask that Staff and the Committee when you take
33 it up, look at the question, I see that we still have referral to the Tower Committee such
34 as it is, for recommendations. There is an issue within the community at large about
35 knowing about that Committee's activities and being advised of their meetings on a
36 particular item and I would ask that you --

37
38 Councilmember PRAISNER

39 We worked through that issue, I thought.

40
41 Jane Lawton

42 That's communicated to the public at large.

43
44 Jane Lawton,



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1 We do have, and I would suggest you can be sure people know, we have actually an
2 award-winning Web site that has all of our minutes and everything on it.

3
4 Councilmember FLOREEN,
5 But really the question was to know when a meeting would be scheduled on a particular
6 --

7
8 Jane Lawton,
9 It's on the Web site. The date of all of our meetings is there.

10
11 Councilmember FLOREEN,
12 That part is connected to the Board, the appeals process so that people know that.

13
14 Councilmember PRAISNER
15 Well, not everything goes through the Board of Appeals.

16
17 Jane Lawton,
18 They usually come to us before the Board, but that's a good idea. We'll ask them to link
19 to us.

20
21 Councilmember FLOREEN,
22 The idea of letting people who are participating, proceeding before the Board know what
23 the process is in front of the Tower Committee and being, if there is a notification
24 process, they could be included on that. I think that will help the community.

25
26 Councilmember PRAISNER
27 We have had that issue and that's what led to the Web site and all of that information. If
28 folks are still having problems, that was what had come up early in the process. If folks
29 are still having problems, I think Jane needs to know and we need to know because we
30 thought we had resolved the notice issues with the Web site and with connection on that
31 and the fact sheet information.

32
33 Councilmember FLOREEN,
34 I will try to write a little memo to you on this to make sure that those points have been
35 addressed. One way or the other.

36
37 Council President PEREZ,
38 Thank you for your time. We are up to Agenda Item 17. This is a public hearing on a
39 supplemental appropriation for the FY '06 operating budget for the Police Department
40 for the COPS Technology Grant Program in the amount of a million three and change.
41 Joint Public Safety and Management and Fiscal Policy Committee hearing set for
42 September 22nd at 2:00 p.m. And there are no speakers for this hearing. Mr. Denis
43 wants to comment on that, he's welcome to do so. Agenda Item 18. It's a public hearing
44 on supplemental appropriation, the FY '06 budget for the Montgomery County Public
45 Schools for ultra-low sulfur diesel fuel in the amount of \$291,500. Action is tentatively



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1 set for Tuesday, September 27. Persons wishing to submit additional information for the
2 Council's consideration should do so immediately if not sooner. Ms. Praisner.

3
4 Councilmember PRAISNER,

5 Yeah, I had a question before we act next week. As I read the flier, it says that this is a
6 mandate but it's not being implemented and we don't know how much money we're
7 going to get, and we don't even know if the requirement might be modified, so I'm
8 asking even though it's not our money, it will be after we stop with this grant, why should
9 we go forward now?

10
11 John Matthews,

12 I'm John Matthews, Director of Transportation. Let me set your mind at ease. First of all,
13 this really is a something for nothing proposition. There's no commitment in the future
14 monetarily for us with regard to this particular grant. The grant simply gives us money to
15 retrofit buses now, with clean air technology that is money that's coming from a
16 judgment against the Virginia Electric Power Company, so it's not tax dollars that we're
17 spending, first off. The grant does not entail any future obligation by MCPS for any kind
18 of retrofits or purchase of fuel or anything outside of what we will normally have to do.

19
20 Councilmember PRAISNER,

21 Well but, if I understand it, we'll have to use this kind of fuel requirements for the buses
22 once we retrofit them which have increased costs. Right?

23
24 John Matthews,

25 No, that's not correct. The retrofits that we're getting and there's actually some
26 confusion about this because there were two grants that we were considering. One
27 grant did just what you suggested it might result in. This grant only puts devices on the
28 buses can be operated on either ultra-low sulfur diesel fuel or the number two regular
29 diesel fuel.

30
31 Councilmember PRAISNER,

32 So we're going to spend money to put devices on buses that because it's a settlement
33 dollar amount, and that's the only thing we can spend this money on? Is that it? Or do
34 we have other choices for how we could spend this money?

35
36 John Matthews,

37 Well, there are several choices about what we could have spent the money on within
38 the grant, one of which would have been to put the devices on that would have obliged
39 us to have that continued ultra-low sulphur diesel fuel purchase.

40
41 Councilmember PRAISNER,

42 Okay. Can you give me for next Tuesday a list of what might be the choices for how we
43 could spend this money beyond what you are proposing? Because again, as I
44 understand it then, the mandate to use ultra-low sulfur diesel fuel may or may not go
45 into effect. The grant to help us buy the fuel is not available now. Is that what you're



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1 saying? But the money to put this thing on the buses which will allow us a choice is
2 what we're doing to these buses?

3
4 John Matthews,
5 Well, the money is available now, the fuel is not available.

6
7 Councilmember PRAISNER,
8 It says although the grant, this grant provides \$104,000 to help the County by the first
9 gallons, it is not currently available. The "it" isn't clear as to what--

10
11 John Matthews,
12 The "it" is the fuel. And under the grant and our agreement with the Maryland
13 Department of Environment, what we can do is convert that \$104,000 earmarked for the
14 differential in the fuel price to purchase more diesel oxidation catalysts so that we can
15 spend the \$291,000 for improved air quality in the County.

16
17 Councilmember PRAISNER,
18 I'd like the choices on a piece of paper before Tuesday.

19
20 Council President PEREZ,
21 Ms. Floreen?

22
23 Councilmember FLOREEN,
24 Yes, on that point, I just wanted to say that I asked DPWT to look at this issue as well
25 as to how it might have implications for what the County is doing with respect to ultra-
26 low sulfur diesel issues. I know we've talked about this previously. It would be good to
27 have a coordinated plan on this score I think. We'll see if we hear from them in time for
28 the, when is this going to be taken up? Next week?

29
30 Unidentified
31 Next Tuesday. I'll follow-up.

32
33 Councilmember FLOREEN,
34 I'll ask if County Staff and DPWT have any comments about, really the issue Ms.
35 Praisner's raising.

36
37 Council President PEREZ,
38 Okay. Well, it was good that we at least were able to get through that hearing. Mr.
39 Haines, can we bring you up and ask a few questions about this, too? What do you
40 think of low sulfur diesel fuel? Okay, good. Well, I've always tried to lower my sulfur. I've
41 been told that. Agenda Item Number 19. This is a public hearing on a supplemental
42 appropriation of the FY '06 operating budget of the Montgomery County Public Schools
43 for the Real Estate Management Fund in the amount of \$225,000. Action is scheduled
44 following the hearing. We have now completed the hearing. Moved and seconded. All

